

भारत का राजपत्र

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जाए।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (राजा मंत्रालय को छोड़कर) द्वारा जारी किए गए साधितिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय
नई दिल्ली, 29 दिसम्बर, 2003

का०आ० 30.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 206 थीसीआर 2003 दिनांक 13 अक्टूबर, 2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री एम.एस. राजा मोहन प्रसाद, कार्यपालक अधिकारी (सिविल), लक्ष्मीपुरम एक्सचेंज, भारत संचार निगम लि., मैसूर एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 और 13(2) सपठित धारा 13(1)(डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्करणों और घटयत्र तथा उसी संब्वहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/94/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अधर सचिव

CABINET SECRETARIAT

New Delhi, the 29th December, 2003

S.O. 30.—In exercise of the powers conferred by Sub-section (1) of Section 5, read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 206 PCR 2003 dated 13th October, 2003, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri M.S. Raja Mohan Prasad, Executive Engineer (Civil), Lakshmiapuram Exchange, Bharat Sanchar Nigam Limited, Mysore and any other public servants or persons under Section 7 and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abettments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/94/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 29 दिसम्बर, 2003

का०आ० 31.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 214 पीसीआर 2003 दिनांक 13 अक्टूबर, 2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से सर्वश्री सी.के. मुरलीधर, निदेशक, बैंक ऋण वसूली दस्ता, भारतीय स्टेट बैंक, बंगलौर और एम.जेड. खान, वसूली अधिकारी, बैंक ऋण वसूली दस्ता, भारतीय स्टेट बैंक, बंगलौर एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से इतने अथवा संसक प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संबंधित के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के मदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/95/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 29th December, 2003

S.O. 31.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 214 PCR 2003 dated 13th October, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against S/Shri C. K. Muralidhar, Director, Bank Debt Recovery Squad, State Bank of India, Bangalore and M.Z. Khan, Recovery Officer, Bank Debt Recovery Squad, State Bank of India, Bangalore and any other public servants or persons under Section 7 of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abtemts and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/95/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 30 दिसम्बर, 2003

का०आ० 32.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 257 पीसीआर 2003 दिनांक 24-11-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री के. नागेश्वर राव, सहायक गैरिसन इंजीनियर, एमईएस, अलसूर, बंगलौर के विरुद्ध अपनी आय के ज्ञात स्त्रीतों से अधिक अनुपात में परिसम्पत्तियां एकत्र करने के लिए भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13(2) सपाठित धारा 13(1)(ई) के अधीन

2003 दिनांक 10 दिसम्बर, 2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री प्रकाश बाबू एस., प्लैन टेबलर (क्लास-3), सर्वे ऑफ इंडिया, कोरामंगला, बंगलौर और किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भारतीय दंड संहिता, 1860 (1860 की अधिनियम सं. 45) की धारा 420, 468, 471 और भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) सपाठित धारा 13(1)(डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संबंधित के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/115/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 30th December, 2003

S.O. 32.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 263 PCR 2003 dated 10th December, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri Prakash Babu S., Plain Tabler (Class-III), Survey of India, Koramangala, Bangalore and any other public servants or persons punishable under Sections 420, 468, 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abtemts and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/115/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 30 दिसम्बर, 2003

का०आ० 33.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 257 पीसीआर 2003 दिनांक 24-11-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री के. नागेश्वर राव, सहायक गैरिसन इंजीनियर, एमईएस, अलसूर, बंगलौर के विरुद्ध अपनी आय के ज्ञात स्त्रीतों से अधिक अनुपात में परिसम्पत्तियां एकत्र करने के लिए भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13(2) सपाठित धारा 13(1)(ई) के अधीन

देंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्रम प्रयत्नों, दुष्प्रेरणों और घड़यंत्र तथा उसी संघवहर के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/117/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 30th December, 2003

S.O. 33.—In exercise of the powers conferred by Sub-Section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No.25 of 1946), the Central Government with the consent of the State Government of Karnataka *vide* Notification No.HD 257 PCR 2003 dated 24-11-2003 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for the offences punishable U/s. 13(2) r/w 13(1)(e) of PC Act, 1988 against Shri K Nageshwara Rao, Asstt. Garrison Engineer, MES, Ulsoor, Bangalore for amassing assets disproportionate to his known sources of his income and attempts, abetments and conspiracy in relating to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/117/2003-DSPE]
SHUBHA THAKUR, Under Secy.

नई दिल्ली, 30 दिसम्बर, 2003

का०आ० 34.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 264 पीसीआर 2003 दिनांक 10 दिसम्बर, 2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से सर्वश्री दुर्गा प्रसाद, तत्कालीन सहायक भविष्य निधि आयुक्त, (2) जी.पी. नरसिंहामूर्ति, उच्च श्रेणी लिपिक, कर्मचारी भविष्य निधि संगठन (3) रविंद्र पुजारी (4) जी. रमेश (5) नारायणन के.पी. (6) सुब्रामणियम (7) दिलीप एम.डी. (8) के. मनोज (9) शिवराम (10) मोहन गोवड़ा (11) परमेश कुमार (12) बालासुब्रामणियम और (13) शंकरचार्य और किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भारतीय दंड संहिता 1860 (1860 की अधिनियम सं. 45) की धारा 120-बी, 420, 468, 471 और भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) संपत्ति धारा 13(1)(डी) के अधीन देंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्रम प्रयत्नों, दुष्प्रेरणों और

घड़यंत्र तथा उसी संघवहर के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/116/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 30th December, 2003

S.O. 34.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No.25 of 1946), the Central Government with the consent of State Government of Karnataka, *vide* Notification No.HD 264 PCR 2003 dated 10th December, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against S/Shri (1) S. Durga Prasad, the then Asstt. PF Commissioner (2) Shri G.P. Narasimha Murthy, UDC, Employees Provident Fund Organisation (3) Shri Raveendra Poojari (4) Shri G. Ramesh (5) Shri Narayanan K.P. (6) Shri Subramanyam (7) Shri Dileep M.D. (8) Shri K. Manoj (9) Shri Shivaramu (10) Shri Mohan Gowda (11) Shri Paramesh Kumar (12) Shri Balasubramanyam and (13) Shri Shankaracharya and any other public servants or persons punishable under Sections 120-B, 420, 468, 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and Section 13(2) read with 13 (1) (d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above or any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/116/2003-DSPE]

SHURHA THAKUR, Under Secy.

रि त मंत्रालय

(रा इस्ल विभाग)

(केन्द्रीय प्रत्यक्ष कर घोर्ड)

नई दिल्ली, 3 दिसम्बर, 2003

(आयकर)

का०आ० 35.—सामान्य जानकारी के लिए यह अधिकृत किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ "संघ" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;

(ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोदिदस्त निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवा तल, कोलकाता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स एफआईरिसचर्च इंस्टीट्यूट, गंगानगर डाक घर, इच्छालकरणी-416116, जिला-कोल्हापुर (महाराष्ट्र)	1-4-2001 से 31-3-04

टिप्पणी :—अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकारी क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 339/2003/फ.सं. 203/55/ 2002-आयकर नि.-II]
संगीता गुप्ता, निदेशक (आयकर नि.-II)

MINISTRY OF FINANCE
(Department of Revenue)
Central Board of Direct taxes)
New Delhi, the 3rd December, 2003
(INCOME TAX)

S.O. 35.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Association" subject to the following conditions :—

(i) The notified Association shall maintain separate books of account for its research activities;

(ii) The notified Association shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology Bhawan', New Mehrauli Road, New Delhi—110016 for every financial year on or before 31st May of each year;

(iii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Colkata-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in-addition to the return of income tax to the designated assessing officer.

Sl. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s FIE Research Institute, Ganganagar P.O., Ichalkaranji-416116 Distt. Kolhapur (Maharashtra)	1-4-2001 to 31-3-2004

Note:—The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 339/2003/F.No. 203/55/2002-JTA.II]

SANGEETA GUPTA, Director (ITA.II)

नई दिल्ली, 3 दिसम्बर, 2003

(आयकर)

का०आ० 36.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधिसूचित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ परिवर्त आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;

अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सत्रिं वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी भवन” न्यू महरेली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवां तल, कलकत्ता-700071, (ख) सत्रिं वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
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1. मैसर्स साउथ इंडिया टेक्सटाईल, 1-4-2000 से 31-3-2002
रिसर्च एसोसिएशन,
पी.बी. सं. 3205,
कोयम्बटूर, एरोड्रम रोड,
कोयम्बटूर-14

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन अतियां सत्रिं वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 338/2003/फ.सं. 203/15/2002-आयकर नि.-II]
संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 3rd December, 2003
(INCOME TAX)

S.O. 36.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category “Association” subject to the following conditions :—

- The notified Association shall maintain separate books of accounts for its research activities;
- The notified Association shall furnish the Annual Return of its scientific research activities to the

Secretary, Department of Scientific and Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year ;

(iii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of Income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. South India Textiles Research Association, P.B. No. 3205, Coimbatore Aerodrome Road, Coimbatore-14	1-4-2000 to 31-3-2002

Notes :—The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 338/2003/F.No. 203/15/2002-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 3 दिसम्बर, 2003

(आयकर)

कांगड़ा 37.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ “संस्था” श्रेणी के अन्तर्गत नियमित शर्तों के अधीन अनुमोदित किया गया है :—

- अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को

अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी भवन” न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिदृष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडलटन रो, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स एसोसिएशन फार रिसर्च इन होम्योपैथी, प्लाट नं. 24/2/3, सेक्टर-15, एरोली, नवी मुम्बई-400708, (महाराष्ट्र)	1-4-2000 से 31-3-2004

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को साझे भेजी जाएंगी।

[अधिसूचना सं.-336/2003/फा सं. 203/39/2001-आयकर नि.-II/(खंड-I)]
संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 3rd December, 2003

(INCOME TAX)

S.O. 37.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category “Institution” subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of Income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Association for Research in Homoeopathy, Plot No. 24/2/3, Sector 15, Airoli, Navi Mumbai-400708, (Maharashtra)	1-4-2000 to 31-3-2003

Notes :—The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 336/2003/F.No. 203/39/2001-ITA-II/(Vol. I)]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 3 दिसम्बर, 2003

(आयकर)

का०आ० 38.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उत्तिलिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ “संघ” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया हैं :—

(i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;

(ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग

“टेक्नोलॉजी भवन” न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोददिए निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर निदेशक (छूट) 10 मिडलटन रो, पंचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स इंडियन एसोसिएशन फार द कल्टीवेशन आफ साइंस 2 ए एण्ड बी, राजा एस. सी. मलिक रोड, कोलकाता-700032	1-4-2000 से 31-3-2003

टिप्पणी :—अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 337/2003/फा.सं.203/41/2001-आयकर नि.-II]
संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 3rd December, 2003

(INCOME TAX)

S.O. 38.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category “Association” subject to the following conditions :—

- (i) The notified Association shall maintain separate books of accounts for its research activities;
- (ii) The notified Association shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year ;

(ii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071 (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Indian Association Cultivation of Science 2A & B, Raja S.C. Mullick Road, Kolkata-700032	1-4-2000 to for the 31-3-2003

Notes :—The notified Association is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax-Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 337/2003 /F.No. 203/41/2001-ITA.II]

SANGEETA GUPTA, Director (ITA. II)

नई दिल्ली, 18 दिसम्बर, 2003

(आयकर)

का०आ० 39.—सामान्य जानकारी के लिए वह अधूरीत किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ “संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्थाएँ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी भवन” न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोददिए निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परिषिक्त वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 लिडिलेटन रो, पांचवाँ तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स कम्प्यूटर सोसायटी आफ इंडिया, 122 टी.वी. इंडस्ट्रियल एस्टेट, एस. के. अहिरे मार्ग, मुम्बई-400025	1-4-2003 से 31-3-2003

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 351/2003/फा.सं. 203/7/2003—आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 18th December, 2003

(INCOME TAX)

S.O. 39.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (I) of Section 35 of the Income-tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- The notified Institution shall maintain separate books of accounts for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071 (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Computer Society of India, 122 T.V. Industrial Estate, S. K. Ahire Marg, Mumbai-400025	1-4-2000 to 31-3-2003

Notes :—The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 351/2003/F.No. 203/7/2003-ITA.II]

SANGEETA GUPTA, Director (ITA.II)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 19 दिसम्बर, 2003

का.आ. 40.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिज़र्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, श्री बी.जे. बंदूतिया, सेवानिवृत्त प्रधानाचार्य, कामर्स कालेज, नानकवाडा तिथल रोड, उर्मी, जैक्सन हिल, बालसा, बलसाड को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के अहमदाबाद स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

[फा.सं. 8/2/2003-बीओ-I(1)]

रमेश चन्द्र, अवर सचिव

(DEPARTMENT OF ECONOMIC AFFAIRS)

(Banking Division)

New Delhi, the 19th December, 2003

S.O. 40.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank

of India, hereby nominates Shri B.J. Bhandutia, Retired Principal, Commerce College, Nanakwada, Tithal Road, Urmi, Jackson Hill, Valsad to be a member of the Ahmedabad Local Board of the State Bank of India for a period of three years from the date of notification.

[F.No. 8/2/2003-BO-I(1)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का०आ० 41.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के बंगलौर स्थानीय बोर्ड में सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री मदन बिंदुराव देसाई	देसाई हाउस, क्लब रोड, हुबली-580020	व्यवसायी-साझेदार देसाई एंड कंपनी
2.	श्री प्रभाकर नरसिंहा नायक	7-2-4, गुजारी माने, वाडीराजा रोड, उदुपी-576101	चार्टर्ड एकाउन्टेंट
3.	श्रीमती सुधा राजु	67/6, कीर्ति कृष्ण, छठवां क्रांस, बनासेखरी रोड, फस्ट स्टेज, बंगलौर-50	उप सभापति, एन आई आई टी
4.	सुश्री प्रिया मसकरेनहास	सिलवरएंड, 15/1, कुकसन राव, रिचर्ड्स टाउन, बंगलौर-84	व्यवसाय

[फा.सं. 8/2/2003-बीओ-I(2)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 41.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Bangalore Local Board of the State Bank of India for a period of three years from the date of notification.

Sr. No.	Name	Address	Occupation
1.	Shri Madan Bindurao Desai	Desai House, Club Road, Hubli-580020	Businessman-partner Desai & Co.
2.	Shri Prabhakara Narasimha Nayak	7-2-4, Gujjadi Mane, Vadiraja Road, Udupi-576101	Chartered Accountant
3.	Smt. Sudha Raju	67/6, Kirthi Kripa, 6th Cross, Banasekhar Road, 1st Stage, Bangalore-50	Vice President, NIIT
4.	Ms. Priya Mascarenhas	Silverend, 15/1, Cookson Rao, Richards Town, Bangalore-84	Business

[F. No. 8/2/2003-BO-1(2)]

RAMESH CHAND, Under Secy.

3847GJ/03-2

नई दिल्ली, 19 दिसम्बर, 2003

का०आ० 42.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के भोपाल स्थानीय बोर्ड में सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री चिंतामणि शुक्ला	1170-सी, गीतांजलि, विवेकानन्द वार्ड, यादव कालोनी, जबलपुर-482002 (म.प्र.)	प्रोफ एवं हेड, डिपार्टमेंट आफ पोस्ट ग्रेजुएट बैंडीज, महाकौशल आर्ट एंड कामर्स कालेज, जबलपुर
2.	सुश्री माधुरा सेठ	सी-24, बीडीए, कालोनी, शिवाजी नगर, स्टाप सं. 6 के करीब, भोपाल	प्रिंसीपल, स्कालर्स होम पब्लिक स्कूल ई-2, अरेरा कालोनी, भोपाल
3.	श्री अनवर जाफरी	एम-566, ई-7 अरेरा कालोनी, भोपाल	निदेशक, एकलब्ध, एन जी ओ

[फा. सं. 8/2/2003-बीओ-I(3)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 42.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Bhopal Local Board of the State Bank of India for a period of three years from the date of notification.

Sr. No.	Name	Address	Occupation
1.	Shri Chintamani Shukla	1170-C, Gitanjali, Vivekanand Ward, Yadav Colony, Jabalpur 482002(MP)	Prof & Head, Department of Post Graduate Studies, Mahakaushal Art & Commerce College, Jabalpur
2.	Ms. Madhuri Seth	C-24, BDA Colony, Shivaji Nagar, Near Stop No.6, Bhopal	Principal, Scholer's Home Public School E-2, Arera Colony, Bhopal
3.	Shri Anwar Jafri	M-566, E7, Arera Colony, Bhopal	Director, Eklavya NGO

[F.No. 8/2/2003-BO-I(3)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का०आ० 43.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के भुवनेश्वर स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्रीमती सविता मोहनती	23, फारेस्ट पार्क, भुवनेश्वर-751009	प्रबंधक शिक्षक एवं कार्यपालक निदेशक, मेक्सकेयर लैब
2.	श्री अरुण कुमार साबत	ए/348, शहीद नगर, भुवनेश्वर-751007	चार्टर्ड एकाउन्टेंट

[फा. सं. 8/2/2003-बीओ-I(4)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 43.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Bhubaneswar Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Mrs. Saveeta Mohanty	23, Forest Park, Bhubaneswar-751009	Management Teacher and Executive Director, Maxcare Laboratories, Bhubaneswar.
2.	Shri Arun Kumar Sabat	A/348, Sahid Nagar, Bhubaneswar-751007	Chartered Accountant.

[F.No. 8/2/2003-BO-I(4)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का०आ० 44.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श लेने के पश्चात्, एतद्वारा, निन्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के चंडीगढ़ स्थानीय बोर्ड में सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री सुमन कुमार अग्रवाल	108, जीएच-4, मनसा देवी काप्पलेक्स, सेक्टर 5, पंचकुला हरियाणा	चार्टर्ड एकाउन्टेंट।
2.	श्रीमती स्नेह महाजन	आर-1049/39 बी, चंडीगढ़-698417	निदेशक पीएस (II) स्कूल, डीएची कालेज प्रबंधक समिति, नई दिल्ली।
3.	श्री मनमोहन लाल सरीन	48, सेक्टर 4, चंडीगढ़-160001	एडवोकेट।

[फा.सं. 8/2/2003-बीओ-I(5)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 44.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Chandigarh Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri Suman Kumar Aggarwal	108, GH-4, Mansa Devi Complex, Sector 5, Panchkula (Haryana)	Chartered Accountant.
2.	Mrs. Sneh Mahajan	R-1049/39-B, Chandigarh-698417	Director PS(II), Schools, DAV College Managing Committee, New Delhi.
3.	Shri Manmohan Lal Sarin	48, Sector 4, Chandigarh-160001	Advocate.

[F.No. 8/2/2003-BO-I(5)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का० आ० 45.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारत रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के चेन्नई स्थानीय बोर्ड में सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री नलिनी पद्मानाभन	न्यू सं. 25 (पुरानी सं. 13), गोपाल कृष्ण रोड, टी नगर, चेन्नई-600017	चार्टर्ड एकाउटेंट।
2.	श्री जे मदन गोपाल राव	12, कोंडी छेट्टी स्ट्रीट, चेन्नई-600001	वरिष्ठ एडवोकेट, केन्द्रीय सरकार, स्थायी परिषद, उच्च न्यायालय, चेन्नई।
3.	डा. ए रामामूर्ति, एमडी	1/143-सी, बी.जी. गार्डन, वीरपांडियनपट्टनम, त्रिचुर-628216	कंसलेटेंट फिजीशियन।
4.	डा. आर वानियाराजन	प्रिंसीपल, विवेकानंद कालेज, त्रिरुवेदकम, पश्चिम मदुरई-625217	प्रधानाचार्य, विवेकानंद कालेज, मदुरई।

[फा. सं. 8/2/2003-बीओ-I(6)]

रमेश चन्द, अध्यक्ष सचिव

New Delhi, the 19th December, 2003

S.O. 45.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Chennai Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri Nalini Padmanabhan	New No. 25(Old No. 13) Gopalkrishna Road, T. Nagar, Chennai-600017	Chartered Accountant.
2.	Shri J. Madana Gopal Rao	12, Kondi Chetty Street, Chennai-600001	Advocate Sr. Cent. Govt. Standing Counsel High Court at Chennai.
3.	Dr. A. Ramamurthy, MD	1/143-C, B.G. Garden, Veerapandianpatnam, Tiruchendur, 628216	Consultant Physician.
4.	Dr. R. Vanniarajan	Principal, Vivekananda College, Thiruvvedakam West Madurai-625217	Principal, Vivekananda College, Madurai.

[F. No. 8/2/2003-BO-I(6)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का० आ० 46.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार, भारत रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के हैंदराबाद स्थानीय बोर्ड में सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री प्यदा कृष्ण मोहन	प्यदा कृष्ण मोहन, डोर नं. 9-10-2, गिद्दी लेन, गांधीनगर, काकीनाड़ा-4	प्रबंधकीय-साझेदार, उषा रिफ्रेक्ट्रीज
2.	श्री चिलुकुरु कृष्ण गोपाल	E-1, एनआईआरडी क्वार्टर्स राजेन्द्र नगर, हैदराबाद-500030	अकादमीमिशन प्रोफेसर एवं हेड, सेंटर फार आईटी, एनआईआरडी, हैदराबाद
3.	करुपोथाला बालकोण्डा,	25-11, 1 क्रास रोड, सावित्री नगर, नेल्लोर, आंध्र प्रदेश-524004	समाज सेवक
4.	श्री बेथी गोपाल रेडी	1-2-216/2, दूसरा तल, दोमलगुडा, हैदराबाद	प्रोफेसर इन एग्रोनोमी, एआरआई, हैदराबाद

[फ. सं. 8/2/2003-बीओ-I(7)]
रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 46.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Hyderabad Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri Pyda Krishna Mohan	Pyda Krishna Mohan, Door No. 9-10-2, Giddi Lane, Gandhinagar, Kakinada-4	Managing Partner, Usha Refractories
2.	Shri Chilukuru Krishan Gopal	E-1, NIRD Quarters Rajendranagar, Hyderabad-500030	Academician Professor and Head, Centre for IT, NIRD, Hyderabad
3.	Shri Karupothala Balakondaiah, IPS (Retd.)	25-II 601, I Cross Road, Savithrinagar, Nellore-524004 (AP)	Social Worker
4.	Shri Bethi Gopal Reddy	1-2-216/2, Second Floor, Domalguda, Hyderabad	Professor in Agronomy, ARI Hyderabad

[F. No. 8/2/2003-B.O.-I(7)]
RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का. आ. 47.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपाधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के कोलकाता स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री सबुज कोली सेन	डिपार्टमेंट ऑफ फिलास्फी, विश्वभारत, शांतिनिकेतन, पश्चिम बंगाल	प्रोफेसर ऑफ फिलास्फी
2.	डॉ. गीता चटर्जी	2, बी डी चटर्जी रोड, हकीमपाड़ा, सिलीगुड़ी, जिला दार्जिलिंग-734401	मेडिकल प्रेक्टीशनर ऐनस्थीसिओलोजिस्ट एवं सोशल सर्विस

[फ. सं. 8/2/2003-बीओ-I(8)]
रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 47.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Kolkata Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri Sabuj Koli Sen	Department of Philosophy, Viswabharat, Shanti Neiketan, West Bengal	Professor of Philosophy
2.	Dr. Geeta Chatterjee	2, B.D. Chatterjee Road, Hakimpura, Siliguri, Distt-Darjeeling-734401	Medical Practitioner Anaesthesiologist & Social Service

[F. No. 8/2/2003-B.O.-I(8)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का. आ. 48.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के लखनऊ स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री राजकपूर	एल/1/33, सेक्टर "बी", अलीगंज स्कीम, लखनऊ-226020	चार्टर्ड एकाउन्टेंट, यूपी जल निगम लि. के वित्त सलाहकार
2.	श्री वीर भद्र मिश्रा	बी-2/15, तुलसी मंदिर, तुलसी घाट, वाराणसी-221005	संकट मोचन फांडेशन के अध्यक्ष, वाराणसी
3.	डॉ. अमृता दास	6, फैजाबाद रोड, लखनऊ-226007	फाउंडर निदेशक, इंस्टीट्यूट फॉर केरियर स्टडीज़

[फा. सं. 8/2/2003-बीओ-I(9)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 48.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Lucknow Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri Raj Kapoor	L-1/33, Sector 'B', Aliganj Scheme, Lucknow-226020	Chartered Accountant, Financial Advisor to UP Jal Nigam Ltd.
2.	Shri Veer Bhadra Mishra	B-2/15, Tulsi Mandir, Tulsi Ghat, Varanasi-221005	President of Sankat Mochan Foundation, Varanasi.
3.	Dr. Amrita Dass	6, Faizabad Road, Lucknow-226007	Founder Director, Institute for Career Studies.

[F. No. 8/2/2003-B.O.-I(9)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का० आ० 49.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के मुख्य स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री प्रकाश धरशीभाई शाह	मिथिला अपार्टमेंट्स, ए विंग, फ्लैट सं. 503, 5वां तल, ए बी रोड, कांदीवली, परिचमी मुम्बई-400067	एडवोकेट
2.	श्री भरत मगनलाल उदेशी	47, धानकुर बिल्डिंग, दूसरा तल, 480 कालबादेवी रोड, मुम्बई-400002	चार्टर्ड एकाउन्टेंट

[फ. सं. 8/2/2003-बीओ-I(10)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 49.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Mumbai Local Board of the State Bank of India for a period of three years from the date of notification :—

Sl. No.	Name	Address	Occupation
1.	Shri Prakash Dharshibhai Shah	Mithila Apartments, A Wing, Flat No. 503, 5th Floor, S.V. Road, Kandivli (W), Mumbai-400067	Advocate
2.	Shri Bharat Maganlal Udeshi	47, Dahanukar Building, 2nd Floor, 480 Kalbadevi Road, Mumbai-400002	Chartered Accountant

[F. No. 8/2/2003-B.O.-I (10)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का० आ० 50.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के नई दिल्ली स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री सुभाष चंद्र चावला	रोड नं. 11, हाऊस नं. 10, पंजाबी बाग एक्सटेंशन, नई दिल्ली-110026	चार्टर्ड एकाउन्टेंट
2.	श्री सलामत उल्लाह	ए 3, हजरत निजामुद्दीन वेर्स्ट, नई दिल्ली-110013	व्यवसायी

[फ. सं. 8/2/2003-बीओ-I(11)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 50.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the New Delhi Local Board of the State Bank of India for a period of three years from the date of notification :—

Sl. No.	Name	Address	Occupation
1.	Shri Subhash Chandra Chawla	Road No. 11, House No. 10, Punjabi Bagh Extn. New Delhi-110026	Chartered Accountant
2.	Shri Salamat Ullah	A 3, Hazrat Nizamuddin West, New Delhi-110013	Businessman

[F. No. 8/2/2003-B.O.-I(11)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का. आ. 51.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा निम्नलिखित व्यक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के उत्तर पूर्वी स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री हरि प्रसाद हजारिका	5, गोपाल रोड, पानबाजार, गुवाहाटी-781001	चार्टर्ड एकाउण्टेंट
2.	श्री धरणी धर माली	लालगाँश, ब्रह्मबोध आश्रम के सामने, लोखरा रोड, गुवाहाटी-781034	परियोजना प्रमुख, आरडीसी फार नार्थ इस्ट
3.	कर्नल मनोरंजन गोस्वामी	आदारानी, लालगाँश, गुवाहाटी-781034	कंसलेटेंट

[फ. सं. 8/2/2003-बीओ-I(12)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 51.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the North Eastern Area Local Board of the State Bank of India for a period of three years from the date of notification :—

Sl. No.	Name	Address	Occupation
1.	Shri Hari Pd. Hazarika	5, Gopal Road, Panbazar, Guwahati-781001	Chartered Accountant
2.	Shri Dharani Dhar Mali	Lalganesh, Opp. Brahmabodh Ashram, Lokhara Road, Guwahati-781034	Project Head, RDC for North East
3.	Col. Manoranjan Goswami	Aadarani, Lalganesh, Guwahati-781034	Consultant

[F. No. 8/2/2003-B.O.-I(12)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का. आ. 52.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, श्री किशोरी मोहन शर्मा, एडवोकेट, काली बाड़ी रोड, हजारीबाग-855301 को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के पटना स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

[फ. सं. 8/2/2003-बीओ-I(13)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 52.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate Shri Kishori Mohan Verma, Advocate, Kali Badi Road, Hazaribagh-825301 to be a member of the Patna Local Board of the State Bank of India for a period of three years from the date of notification.

[F. No. 8/2/2003-B.O.-I(13)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2003

का० आ० 53.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, निम्नलिखित शक्तियों को तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के तिरुवनंतपुरम स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

क्रम सं.	नाम	पता	व्यवसाय
1.	श्री पी. ई. बालकृष्ण मेनन	परायथ हाऊस, बैंक रोड, अलुवा-683101 (केरल)	चार्टर्ड एकाउंटेंट
2.	डॉ. एन. मोहनकुमारन	चिराकारा पैलेस, पापन्नमकोड़, तिरुवनंतपुरम-695018	कृषक
3.	सुश्री वित्ता देवराजन	28/2817, श्रीनिकेतन, चेतीकुलांगारा, तिरुवनंतपुरम-695001 (केरल)	चार्टर्ड एकाउंटेंट
4.	श्री के. कृष्णानंद पाई	लक्ष्मी बाग, मियानगोट, कन्ननगढ़-671315 (केरल)	व्यवसायी

[फ. सं. 8/2/2003-बीओ-I(14)]

रमेश चन्द, अवर सचिव

New Delhi, the 19th December, 2003

S.O. 53.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominate the following persons to be a member of the Thiruvananthapuram Local Board of the State Bank of India for a period of three years from the date of notification :—

Sr. No.	Name	Address	Occupation
1.	Shri P. E. Balakrishna Menon	Parayath House, Bank Road, Aluva-683101 (Kerala)	Chartered Accountant
2.	Dr. N. Mohanakumaran	Chirakkara Palace, Pappanamcode, Thiruvananthapuram-695018	Agriculturist

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Sr. No.	Name	Address	Occupation
3.	Ms Chitra Devarajan	28/2817, Sriniketan, Chettikulangara, Thiruvananthapuram-695001, (Kerala)	Chartered Accountant
4.	Sh. K. Krishnananda Pai	Lakshmi Bagh, Meiangot, Kanhangad-671315 (Kerala)	Businessman

[F. No. 8/2/2003-B.O.-I(14)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 26 दिसम्बर, 2003

का. आ. 54.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उपधारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एटद्वारा, वित्त मंत्रालय, आर्थिक कार्य विभाग, नई दिल्ली में सचिव (वित्तीय क्षेत्र) श्री एन. एस. सिसोदिया को तत्काल प्रभाव से और अगले आदेश होने तक श्रीमती विनीता राय के स्थान पर राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मंडल में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/3/2002-बी.ओ.-I]

रमेश चन्द, अवर सचिव

New Delhi, the 26th December, 2003

S.O. 54.—In exercise of the powers conferred by clause (d) of Sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government hereby appoints Shri N. S. Sisodia, Secretary (FS), Ministry of Finance, Department of Economic Affairs, New Delhi as a Director on the Board of National Bank for Agriculture and Rural Development (NABARD) with immediate effect and until further orders vice Smt. Vineeta Rai.

[F. No. 9/3/2002-B.O.-I]

RAMESH CHAND, Under Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 31 दिसम्बर, 2003

(आयकर)

का. आ. 55.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ “संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले समय, वैज्ञानिक और औद्योगिक अनुसंधान विभाग ‘टेक्नोलॉजी भवन’ न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स एम. पी. बिरला इंस्टीट्यूट ऑफ फंडमेंटल रिसर्च, 9/1 आर. एन. मुखर्जी रोड, कोलकाता-700001.	1-4-2002 से 31-3-2005

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियों सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 361/2003/F. सं. 203/95/2003-आयकर नि.-II]
संगीता गुप्ता, निदेशक (आयकर नि.-II)

(Department of Revenue)
(Central Board of Direct Taxes)
New Delhi, the 31st December, 2003
(INCOME TAX)

S.O. 55.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of account for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhavan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Culcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of Income-tax to the designated assessing officer.

S. No.	Name of the organisation	Period for which notification is effective approved
1.	M/s. M.P. Birla Institute of Fundamental Research, 9/1, R.N. Mukherjee Road, Kolkata-700001	1-4-2002 to 31-3-2005

Notes : The notified Institution is advised to apply in the triplicates as well as in advance for renewal of the approval, to the Central Government through the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 361/2003/F.No. 203/95/2003-ITA-II]
SANDEEPTA GUPTA, Director (ITA-II)

रेल मंत्रालय

(रेलवे बोर्ड)

शुद्धि पत्र

नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 56.—उपर्युक्त विषय पर कृपया रेल मंत्रालय (रेलवे बोर्ड) की दिनांक 3-10-2003 की समसंख्यक अधिसूचना का आवलोकन करें, जिसके अंतर्गत मध्य रेलवे के मुंबई मंडल के सतारा स्टेशन को राजभाषा नियम, 1976 के नियम 10 के उपनियम (2) और (4) के अंतर्गत अधिसूचित किया/गया था। सतारा स्टेशन अब मुंबई मंडल के बजाय पुणे मंडल के अधीनस्थ है। अतः दिनांक 3-10-2003 की अधिसूचना के अंतर्गत अधिसूचित किए गए सतारा स्टेशन को मुंबई मंडल के बजाय पुणे मंडल के अधीन पढ़ा जाए।

[सं. हिंदी 2003/ए. भा. 1/12/3]

जे.एन. भाटिया, संयुक्त निदेशक, राजभाषा (रेलवे बोर्ड)

विज्ञान और प्रौद्योगिकी मंत्रालय

(विज्ञान और प्रौद्योगिकी विभाग)

नई दिल्ली, 26 दिसम्बर, 2003

का.आ. 57.— राष्ट्रपति, मूल नियम के नियम 45 के उपबंधों के अनुसरण में, भारतीय संपदा सर्वेक्षण के, सरकारी निवास आबंटन, 1999 का संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम भारतीय सर्वेक्षण संपदा के सरकारी निवास आबंटन (संशोधन) नियम, 2003 है।
(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
2. भारतीय सर्वेक्षण संपदा के सरकारी निवास आबंटन, 1999 में,
(क) अनुपूरक नियम का. नि. 317-क ज-9 में, उप नियम (1) के खंड (5) में “पात्र आवित्र/ संबंधी को हकदारी से एक टाईप नीचे का निवास आवंटित किया जाएगा” शब्दों के स्थान पर “पात्र आवित्र/ संबंधी को उसकी हकदारी का निवास आवंटित किया जाएगा” शब्द रखे जाएंगे;
(ख) अनुपूरक नियम का.नि. 317-क ज-20 में उप नियम (2) के स्थान पर निम्नलिखित उप नियम रखे जाएंगे,—
“यदि कोई अधिकारी, उसके आवंटित किसी निवास या उसके किसी भाग को या उसके अनुलान किसी उपगृह या गैरज को इन नियमों के उल्लंघन में उप-पट्टे पर देता है तो उस पर किसी ऐसी कार्रवाई पर जो उसके विरुद्ध की जाए, प्रतिकूल प्रभाव डाले बिना आबंटन के रद्दकरण की तारीख से ऐसी दर से, जो केन्द्रीय सरकार द्वारा समय-समय पर नियत की जाए, नुकसानी प्रभारित की जा सकेगी। इसके अतिरिक्त अधिकारी पर भविष्य में किसी निवास में भागीदारी करने पर, किसी ऐसी विनिर्दिष्ट अवधि के लिए, जो संबंधित निदेशक विनिश्चय करें रोक लगाई जा सकेगी।”

[फा. सं.एस एम/29/025/1111]

एस. चक्रवर्ती, अव० सचिव

टिप्पण :- भारतीय संपदा सर्वेक्षण सरकारी निवास आबंटन नियमों को राजपत्र में का. आ. 599 तारीख 10 फरवरी, 1999 द्वारा प्रकाशित किए गए थे।

MINISTRY OF SCIENCE AND TECHNOLOGY

(Department of Science and Technology)

New Delhi, the 26th December, 2003

S.O.- 57.— In pursuance of the provisions of Rule 45 of the Fundamental Rules, the President hereby makes the following rules to amend the Allotment of Government Residences in Survey of India Estate Rules, 1999, namely :-

1. (1) These rules may be called the Allotment of Government Residences in the Survey of India Estate (Amendment) Rules, 2003.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Allotment of Government Residences in Survey of India Estate Rules, 1999,
(a) in Supplementary Rule S.R. 317-AH-9, in sub-rule (1), in clause (v), for the words “the eligible dependent/ relation shall be allotted residence one type below the entitlement”, the words “the eligible dependent/relation shall be allotted residence of his entitlement” shall be substituted;

(b) in Supplementary Rule SR-317-AH-20, for sub-rule (2), the following sub-rule shall be substituted,—

“If an officer sublets a residence allotted to him or any portion thereof or any of the out houses or garages appurtenant thereto, in contravention of these rules, he may, without prejudice to any action that may be taken against him, be charged damages at rates from the date of cancellation of allotment, as may be fixed by the Central Government from time to time. In addition, the officer may be debarred from sharing the residence for a specified period in future as may be decided by the Director concerned.”

[F.No. SM/29/025/1994]

S. CHAKRAVARTHY, Under Secy.

Note:- The Allotment of Government Residences in Survey of India were published in the Gazette of India vide S.O. 599 dated 10th February, 1999

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 23 दिसम्बर, 2003

का.आ. 58.— केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम, 10 के उपनियम (4) के अनुसरण में स्वास्थ्य और परिवार कल्याण मंत्रालय के अन्तर्गत आने वाले निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. लाला राम सरूप क्षय एवं श्वास रोग संस्थान,
श्री अरबिन्दो मार्ग, नई दिल्ली-110030
2. संयुक्त निदेशक, केन्द्रीय सरकार स्वास्थ्य योजना का कार्यालय,
डोरण्डा, रांची-2
3. संयुक्त निदेशक, केन्द्रीय सरकार स्वास्थ्य योजना का कार्यालय,
3/45, केशवदासपुरम, त्रिवेन्द्रम-4

[संख्या ई. 11012/1/94-रा.भ.कार्या. (हिन्दी-I)]

अवतार सिंह चौहान, मुख्य लेखा नियंत्रक

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 23rd December, 2003

S.O. 58.— In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the Ministry of Health & Family Welfare, whereof 80 percent staff have acquired working knowledge of Hindi :—

1. Lala Ram Sarup Institute of Tuberculosis and Respiratory Diseases, Sri Aurobindo Marg, New Delhi- 110030
2. Office of the Joint Director, Central Government Health Scheme, Doranda, Ranchi-2
3. Office of the Joint Director, Central Government Health Scheme, 3/45, Kesavadasapuram, Trivandrum-4.

[No. E. 11012/1/94-O.L.I. (Hindi-I)]
AVATAR SINGH CHAUHAN, Chief Controller of Accounts.

कोयला मंत्रालय

नई दिल्ली, 24 दिसम्बर, 2003

का.आ. 59.— केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस क्षेत्र में कोयले का पूर्वोक्त करने के अपने आशय का सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाली रेखांक सं. एसईसीएल/बीएसपी/जीएम/(पीएलजी)/लैण्ड/269 तारीख 12 जुलाई, 2003 का निरीक्षण कर्त्तव्य, सरगुजा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक 1, कारंसिल हाउस स्ट्रीट कोलकाता - 700001 के कार्यालय में या साठथ ईस्टर्न कोलफिल्ड्स लिमिटेड (राजस्व विभाग), सीपत रोड, बिलासपुर - 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व), साठथ ईस्टर्न कोलफिल्ड्स लिमिटेड, सीपत रोड, बिलासपुर - 495006 (छत्तीसगढ़) को भेजेंगे।

अनुसूची

केतकी भूमिगत परियोजना, विश्रामपुर क्षेत्र
जिला - सरगुजा (छत्तीसगढ़)

रेखांक सं० एसईसीएल/बीएसपी/जीएम (पीएलजी)/
लैण्ड/269 तारीख 12 जुलाई, 2003।

(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

राजस्व भूमि

क्र०सं०	ग्राम का नाम	ग्राम सं०	पटवारी हल्का सं०	तहसील	जिला	क्षेत्र (हेक्टर में)	टिप्पणियां
1.	जोबगा	275	45	सूरजपुर	सरगुजा	303.200	भाग
2.	केतका	61	45	सूरजपुर	सरगुजा	425.100	भाग
3.	लाछा	400	45	सूरजपुर	सरगुजा	415.100	भाग

अन भूमि

इन सं०	वन का नाम	तहसील	जिला	रेज	प्रभाग	क्षेत्र (हेक्टर में)	टिप्पणियां
1.	आरक्षित वन	सूरजपुर	सूरजपुर	सूरजपुर	सरगुजा	301.300	भाग

योग :— 1143.500 हेक्टर + 301.300 हेक्टर = 1444.800 हेक्टर (लगभग) या 3570.10 एकड़ (लगभग)

सीमा वर्णन :—

- क - ख - ग रेखा केतका ग्राम में बिन्दु "क" से आरंभ होती है, फिर ग्राम केतका से होकर जाती है, और केतका और जोबगा ग्रामों की सम्मिलित सीमा पर बिन्दु "ग" पर मिलती है।
- ग - घ रेखा ग्राम जोबगा, फिर आरक्षित वन से होकर जाती है और बिन्दु "घ" पर मिलती है।
- घ - झ रेखा आरक्षित वन फिर लाछा ग्राम से होकर जाती है और बिन्दु "झ" पर मिलती है।
- झ - क रेखा ग्राम लाछा और केतका से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[फा०सं० 43015/9/2003/पी०आर०आई०डल्स्य०]

संजय बहादुर, निदेशक

MINISTRY OF COAL

New Delhi, the 24th December, 2003

S.O. 59.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. SECL/BSP/GM(PLG)/LAND/269 dated the 12th July, 2003 of the area covered by this notification can be inspected in the Office of the Collector, Surguja(Chhattisgarh) or in the Office of the CoalController, 1, Council House Street, Kolkata-700001 or in the office of the South Eastern Coalfields Limited (Revenue Department) Seepat Road, Bilaspur-495006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section(7) of section I3 of the said Act to the Officer-in-charge/Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within ninety days from the date of publication of this notification.

SCHEDULE
Ketka Under Ground Project
Bisrampur Area
District Surguja (Chhattisgarh)

Plan No. SECL/BSP/GM (PLG)/Land/269 Dated the 12th July 2003

(showing land notified for prospecting)

Revenue Land

Serial number	Name of village	Village number	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1	Jobga	275	45	Surajpur	Surguja	303.200	Part
2	Katka	61	45	Surajpur	Surguja	425.200	Part
3	Lachha	400	45	Surajpur	Surguja	415.100	Part

Forest Land

Serial Number	Name of forest	Tahsil	District	Range	Division	Area in hectares	Remarks
1	Reserved Forest	Surajpur	Surguja	Surajpur	South Surguja	301.300	Part

Ground Total :— 1143.500 Hectares + 301.300 Hectares = 1444.800 Hectares

(Approximately) or 3570.10 Acres (approximately)

Boundary description—

- A-B-C Line starts from point 'A' in Ketka village, then passes through village Ketka and meets on the common boundary of villages Ketka-Jobga at point 'C'.
- C-D Line passes through village Jobga then reserved forest and meets at point 'D'.
- D-E Line passes through reserved forest then through village Lachha and meets at point 'E'.
- E-A Line passes through village Lachha and Kotla and meets the starting at point 'A'.

[F.No. 43015/9/2003/PRIW]

SANJAY BAHADUR, Director

शुद्धि-पत्र

नई दिल्ली, 29 दिसंबर, 2003

का. आ. 60.—भारत के राजपत्र तारीख 10 मई 2003 के भाग II खण्ड 3, उपखण्ड (ii) में पृष्ठ क्रमांक 3559 से 3561 तक में प्रकाशित भारत सरकार कोयला मंत्रालय की अधिसूचना संख्या का.आ. 1383 तारीख 9 मई 2003 में :

(क) पृष्ठ क्रमांक 3560 पर,—

(i) अधिसूचना में जहां कहीं भी "राजखंड" शब्द प्रयुक्त हुआ हो, उसके स्थान पर "राजखड़" पढ़ें।

(ii) दूसरी तालिका के ऊपर (उप खंड "ख") के स्थान पर (सब ब्लाक "ब") पढ़ें।

(ख) पृष्ठ क्रमांक 3561 पर,—

(i) सीमा वर्णन में रेखा ड—च के अन्तर्गत दूसरी पंक्ति में "पुनः" के पश्चात् एवं "मुहर" के पहले "ग्राम" जोड़कर पढ़ें।

[सं. 43015/1/2003/पीआरआई डब्ल्यू]

संजय बहादुर, निदेशक

CORRIGENDA

New Delhi, the 29th December, 2003

S.O. 60.—In the notification of the Government of India in the Ministry of Coal, S.O. 1383 dated the 9th May, 2003 and published in the Gazette of India Part II, Section 3, Sub-section (ii) dated the 10th May, 2003, at page 3562,

(a) in line 14,—

- (i) for “total area or” read “Total area”;
- (ii) for “176.00 acres (approx) 71.23” read “176.00 Acres (Approx) or 71.23”.

(b) in line 30,—

- (i) for “Total area or” read “Total area”;
- (ii) for “64.50 Acres (Approx)” read “64.50 Acres (Approx) or”.

[No. 43015/1/2003/PRIW]

SANJAY BAHADUR, Director

नई दिल्ली, 29 दिसम्बर, 2003

का. आ. 61.—केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की उपधारा (I) के अधीन जो भारत सरकार के तत्कालीन कोयला और खान मंत्रालय (कोयला विभाग) की अधिसूचना सं. का.आ. 3328 तारीख 8 अक्टूबर 2002 द्वारा भारत के राजपत्र, भाग (II), खंड 3, उपखंड (ii) तारीख 19 अक्टूबर 2002 प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 29.750 हेक्टर (लगभग) या 73.51 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार, का यह समाधान हो गया है, कि उक्ता भूमि के भाग में कोयला अभिप्राप्य है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 29.75 हेक्टर (लगभग) या 73.51 एकड़ (लगभग) माप की भूमि में खनिजों के खनन, खदान, बोर करने, उनकी खुदाई और तत्ताश करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. सी-1 (ई) III/जेजेएमआर/705-0203, तारीख 27 फरवरी, 2003 का निरीक्षण, कलेक्टर, चन्दपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काठंसिल हाउस स्ट्रीट, कोलकाता-पिन-700001 के कार्यालय में या वेस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व विभाग), कोल ईस्टेट, सिविल लाईंस, नागपुर-440001 (महाराष्ट्र) के कार्यालय में किया जा सकता है।

अनुसूची

नागलोन आनत विस्तार खंड

माजरी क्षेत्र, जिला चन्दपुर (महाराष्ट्र)

(रेखांक सं. सी.-1(ई) III/जेजेएमआर/705-0203 तारीख 27 फरवरी, 2003)

क्रम संख्या	ग्राम का नाम	पटवारी सर्कल संख्या	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पणी
1.	पटाला	3	भद्रावती	चन्दपुर	29.75	भाग

कुल क्षेत्र : 2975 हेक्टेयर
(लगभग)

या

73.51 एकड़
(लगभग)

ग्राम पटाला में अविवृत किए जाने वाले प्लॉट संख्याक :—

133, 134, 135, 136, 137/1, -137/2 137/3, भाग, 138 भाग, 183/1क-183/1 ख-183/2 भाग, 184 भाग, 185, 186/1-186/2, 187/1-187/2, 188/1-188/2, 189/1-189/2-189/3, 190/1-190/2-190/3 भाग, 191, 192 भाग, 193/1-193/2 भाग, नाला भाग।

सीमा वर्णन—

क-ख : रेखा बिन्दु 'क' से आरंभ होती है और ग्राम चड़ाला से होती हुई चाला पार करती हुई, फिर प्लॉट संख्याक 193/1-193/2 192, 190/1-190/2-190/3, 183/1क-183/1 ख-183/2, 184, 183/1क-183/1 ख-183/2, 184, 137/1-137/2, 137/3, 138 में से होकर जाती है और बिन्दु 'ख' पर मिलती है।

ख-ग : रेखा ग्राम पटाला से होकर, प्लॉट संख्याक 138, 137/1-137/2-137/3, 136, 135, 134, 133 की आहरी सीमा के साथ जाती है और बिन्दु 'ग' पर मिलती है।

2. अर्जन की वारत आपत्तियाँ—

- कोई व्यक्ति जो इस अधिसूचना से संलग्न अनुसूची में यथा वर्णित भूमि से हिताद्ध कोई व्यक्ति, जारी किए जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के धारा 8 की उपधारा (1) के अधीन किसी अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।
- प्रत्येक आक्षेप, केन्द्रीय सरकार के कोयला नियंत्रक, 1, काठंसिल हाडस स्ट्रीट, कोलकाता (पिन-700001) को, जो अधिसूचना सं. का. आ. 2519, तारीख 11 जून, 1983 द्वारा नियुक्त उक्त अधिनियम के अधीन सक्षम प्राधिकारी है, को धारा 8 की उपधारा (2) के अधीन आपत्ति देगा और लिखित रूप में की जाएगी और सक्षम प्राधिकारी, ऐसे व्यक्ति को स्वयं या सूने जाने का या विधि व्यवसायी द्वारा सुननाई का अवसर देगा और ऐसी सभी सुनवाईयों को सूने जाने के पश्चात् और ऐसी अतिरिक्त आंख करने के पश्चात् यदि कोई हो, जो वह आवश्यक समझे, वह या ऐसी सभी सुनवाईयों को उपधारा (2) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी तो धारा 8 की उपधारा (2) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित उक्त उपधारा के अधीन केन्द्रीय सरकार को उसके विविध देश के लिए देगा।

स्पष्टीकरण—

- धारा 8 के अर्थात् यह आपत्ति नहीं जाने जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।
- कोई व्यक्ति किसी भूमि में हिताद्ध समझा जाएगा जो प्रतिकर में हित का द्यावा करने का हकदार होता, यदि भूमि या किसी ऐसी उक्त भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।
- ग-घ : रेखा ग्राम पटाला और मानगांव की सम्मिलित ग्राम सीमा के साथ-साथ जाती है, और बिन्दु 'घ' पर मिलती है।
- घ-क : रेखा ग्राम पटाला और नागलोन की सम्मिलित ग्राम सीमा के साथ-साथ जाती है और आरंभिक बिन्दु 'क' पर मिलती है।

[संख्या. 43015/7/2002-पी.आर.आई. डब्ल्यू.]

संजय बहादुर, निदेशक

New Delhi, the 29th December, 2003

S.O. 61.—Whereas by the notification of the Government of India in the then Ministry of Coal and Mines (Department of Coal), vide S.O. No. 3328 (E) dated 8th October, 2002 issued under sub-section(l) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India in Part II, Section 3 (ii) of the Gazette of India dated the 19th October, 2002, the Central Government gave notice of its intention to prospect for coal in 29.75 hectares (approximately) or 73.51 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And, whereas, the Central Government is satisfied that coal is obtainable in a part of said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government notice of its intention to acquire rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the lands measuring 29.75 hectares (approximately) or 73.51 acres (approximately) described in the Schedule appended hereto;

The Plan bearing No. C-I(E) III/ JJMR/705-0203 dated 27th February, 2003 of the area covered by this notification may be inspected in the office of the Collector, Chandrapur (Maharashtra) or in the office of the Coal Controller, 1 Council House Street, Kolkata-Pin 700001 or in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur- 440001 (Maharashtra).

(2) Objections to Acquisition

- (i) Any person interested in the land, as described in the Schedule appended to this notification, may within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land under sub-section (1) of Section 8.
- (ii) Every objection shall be made to the Coal Controller, 1 Council House Street, Kolkata-Pin 700001, appointed by the Central Government as the competent authority vide notification number S.O. 2519 dated the 11th June, 1983 under the Act, in writing under sub-section (2) of Section 8 who shall give person making objections an opportunity of being heard either in person or by legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the said land or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land to the Central Government, containing his recommendations on the objections, together with the record of proceedings held by him for the decision of that Government under the said sub-section.

Explanation.—

- (a) It shall not be an objection within the meaning of sub-section (1) of Section 8 for any person to say that he himself desires to undertake mining operations in the land for production of coal and that such operations should not be undertaken by the Central Government or any other person.
- (b) A person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the said land or any rights in or over such land were acquired under this Act.

SCHEDULE

Naglon Incline Extension Block

Majri Area

District Chandrapur (Maharashtra)

[Plan No. C-I(E) III/ JJMR/705-0203 dated 27th February, 2003]

Mining Rights

Serial No.	Name of village	Patwari circle number	Tahsil	District	Area in Hectares	Remarks
1.	Patala	3	Bhadrawati	Chandrapur	29.75	Part

Total area 29.75 hectares

(Approximately)

Or

73.51 acres (Approximately)

Plot numbers to be acquired in village Patala :—

133, 134, 135, 136, 137/1-137/2-137/3 part, 138 part, 183/1A-183/1B-183/2 part, 184 part, 185, 186/1-186/2, 187/1-187/2, 188/1-188/2, 189/1-189/2-189/3, 190/1-190/2-190/3 part, 191, 192 part, 193/1-193/2 part, Nalla Part.

Boundary Description :—

- A-B Line starts from point 'A' and passes through village Patala crosses Nalla, then passes in plot numbers 193/1-193/2, 192, 190/1-190/2-190/3, 183/1A-183/1B-183/2, 184, 183/1A-183/1B-183/2, 184, 137/1-137/2-137/3, 138 and meets at point 'B'.
- B-C Line passes through village Patala along the outer boundary of plot numbers 138, 137/1-137/2-137/3, 136, 135, 134, 133 and meets at point 'C'.
- C-D Line passing along the common village boundary of villages Patala and Mangaon and meets at point 'D'.
- D-A Line passes along the common village boundary of villages Patala and Naglon and meets at starting point 'A'.

[No.43015/7/2002-PRIW]

SANJAY BAHADUR, Director

ग्रम मंत्रालय

नई दिल्ली, 11 दिसंबर, 2003

का. आ. 62.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब व सिन्ध बँक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 30/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-12012/188/1997-आईआर(बी-II)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 11th December, 2003

S.O. 62.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 30/98 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Panjab & Sind Bank and their workmen, received by the Central Government on 11-12-2003.

[No. L-12012/188/1997-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer

SHRI S.M. GOEL

Case No. ID/34/98

Lehmer Singh, son of Sarwan Singh
resident of Kakkar Kalan, Teh. Shahkot,
district Jalandhar,Applicant

Versus

The Zonal Manager, Punjab & Sind Bank, Model Town
Jalandhar,Respondent

APPEARANCES

For the Workman : Shri S.P. Soi

For the Management : Shri J. S. Sathi

AWARD

(Passed on 11-11-2003)

Central Govt. vide notification No. L-12012/188/97/IR(B.II) dated 13th of January 1998 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of the Punjab & Sind Bank in terminating the services of Shri Lehmer Singh w.e.f. 28-6-96 is legal and justified? if not, to what relief the said workman is entitled and from which date"

2. In the claim statement it is pleaded by the workman that he was appointed as peon by the management 1-11-1995 at Shahkot Branch and he worked there till 28-6-1996 @ Rs. 1200/- per month. It is also pleaded that he was not paid wages from 15-6-1996 to 28-6-1996 and 1-11-1995 to 31-2-1996. It is also pleaded that he was the permanent status and junior to the workman was retained in service and new appointments were also made. The applicant had completed more than 240 days of service in one calander year and the management while terminating his services has not complied with the mandatory provisions of section 25-F, H, N. It is prayed that applicant be reinstated in service with full backwages and other benifits.

3. In the claim statement the management has pleaded that the workman was never appointed as peon by the Bank and he was engaged as casual labour @ Rs. 40/- per day from 27-12-1995 to 6-3-96, 8-3-96 to 14-5-96, 22-5-1996, 25-5-96, 27-5-96, 30-5-96, 5-9-96 and 11-6-96. Therefore, the applicant worked only for 145 days from 27-12-1995 to 11-6-1996. It is specifically pleaded that the workman had not worked from 1-11-1995 to 31-12-1995 for the obvious reason that he was not engaged by the bank during this period. The applicant never completed 240 days of service with the bank in the calander year immediately before the date of his termination and therefore, the management has not contravanned any provisions of the I.D. Act 1947, and the workman is not entitled to any relief.

4. In evidence the applicant filed his own affidavit Ex. W1 and documents Ex. W 2 to W 10. In cross examination the applicant admitted that this branch was opened on 29-12-1995. He has also admitted that documents Ex. W10, W7 and W8 relates to the period from 29-12-1995 to 20-1-1996 and payment has been shown as casual labour charges. In rebuttal the management produced Shri A.S. Kanwar. As MW1 who filed has affidavit Ex.M1.

5. I have heard the learned counsel for the parties and have also gone through the evidence and record of the case.

6. The learned counsel for the workman has argued that from Ex-W3 the lease deed it is clear that the bank had taken the premises for opening the branch on 1-11-1995 and the workman was appointed on the same day, though no appointment letter was given and he worked continuously from 1-11-1995 to 28-6-1996. It is also argued that the bank has not made the payment to the workman for the period from 1-11-1995 to 26-12-1995 and from 15-6-1996 to 28-6-1996. It is also argued that the applicant had served the legal notice to the management for the payment of the dues of wages for the above period. On the other hand, the learned counsel for the management has argued that the workman had worked only for 145 days during the period from 27-12-1995 to 11-6-96 and not 240 days as alleged by the workman. No payment voucher or

any other proof was produced by the workman to prove his working for 240 days during this period. No detail of working days alongwith vouchers have been filed by the workman which might show that the workman had worked for the days as projected by him. He had not worked thus for the period 1-11-1995 to 26-12-1995.

7. I have gone through the rival contentions of the parties. It is admitted by the workman that the shahkot Branch was opened by the bank on 27-12-1995 and the bank had taken the premises on lease on 1-11-1995. The workman was also paid the labour charges wages from the date when the bank opened its branch w.e.f. 27-12-1995 and not from 1-11-1995. No document has been placed on file by the workman to show that he was engaged by the bank w.e.f. 1-11-1995 in the bank as peon. The arguments of the learned counsel for the workman that the legal notice was served on the bank for the payment of wages from 1-11-1995 to 26-12-1995 is of no help to the applicant as nothing has been produced by the workman to prove on record that he had worked with the bank w.e.f. 1-11-1995 to 26-12-1995 and in absence of any proof it can not be held that he worked for this period. The applicant has also received the payment of his working with the bank during the conciliation proceedings for six days i.e. 22-5-1996, 25-5-96, 30-5-96, 5-6-96 and 11-6-1996 and he has not raised any objection to this and he has also admitted in cross-examination that he has not filed any proceeding under the payment of Wages Act before the appropriate authority. Therefore, I find no reason to hold that he has worked for the period from 1-11-1995 to 28-6-1996 and that too without any break. Consequently, it is held that the workman has not put in 240 days of service during one calander year immediately proceeding to the date of his termination. Therefore, the management was also not bound to comply with the provisions of the I.D. Act 1947. I find no merit in the present reference and the same is answered against the workman and returned to the Central Govt. for publication.

Chandigarh.
11-11-2003

S.M. GOEL, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 63.—ऑडिओगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मार्मांगाँव डॉक लेबर बोर्ड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑडिओगिक विवाद में ऑडिओगिक अधिकरण/गोपा के पंचाट (संदर्भ संख्या 25/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-36011/4/1998-आईआर(एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 63.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award Ref. No. 25/99 of the Industrial Tribunal Goa as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mormugao Dock Labour Board and their workman, which was received by the Central Government on 11-12-2003.

[No. L-36011/4/1998-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(BEFORE SHRI AJIT. J. AGNI,
HON'BLE PRESIDING OFFICER)

Ref. No. IT/25/99

The General Secretary,
Transport and Dock Workers Union,
Vasco da Gama, Goa.

... Union/Party I

V/S.

1. Mormugao Dock Labour Board,
Mormugao Harbour,
Vasco da Gama, Goa.

Employer/Party II (1)

2. Shri R. A. Fernandes,
B/513, Junta Quarters,
Butheba Bhatt,
Vasco da Gama, Goa.

... Party II (2)

Union/Party I—Represented by

Adv. Shri S.N. Karmali.

Employer/Party II(1)—Represented by

Adv. Shri Y. V. Nadkarni.

Party II(2)—In person.

PANAJI, DATED : 14-10-2003

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government by order dated 16/17th march 1999 bearing No.L-36011/4/98-IR(M) referred the following dispute for adjudication of this Tribunal :

“Whether allegations raised by Transport and Dock Workers Union, Goa, in their letter No. TDWU/MDLB/97/22 dated 14-3-1997 regarding violation of seniority list by the management of Mormugao Dock Labour Board is justified ?

If so, what directions are necessary in the matter?”

2. On receipt of the reference a case was registered under No. IT/25/99 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Union/Party I (for short, “Union”) filed its statement of claim at Exb. 3. The facts of

the case in brief as pleaded by the union are that the Employer/Party II(1) (for short, "Employer") issued a confirmed seniority list dated 28-2-86 showing Shri S. S. Naik, Jr. Accountant/Labour Inspector at serial No. 5 and Shri R. A. Fernandes, Jr. Accountant/Labour Inspector at serial No. 10. That on noting the said seniority list the workmen protested against the same and called upon the employer to re-examine the seniority position of the Jr. Accountant and Labour Inspectors and to place all the Labour Inspectors on top, based on the recommendations of the DPC. The representation made by the workmen by letter was received by the management on 7th March 1986. That the employer failed to act on the representation and in the year 1997 the workmen were surprised to note that Shri R. A. Fernandes who was placed at serial No. 10 in the confirmed list was promoted to the post of Senior Labour Inspector ignoring Shri S. S. Naik who was placed at serial No. 5 in the confirmed list thereby violating the seniority of the Jr. Accountant/Labour Inspectors. That the said action of the employer was protested by the 3 workmen namely Shri S. S. Naik, Shri Jose Dias and Shri J. Miranda by letter dated 13th February, 1997 and the employer was called upon to make necessary corrections. That since the employer failed to do so, industrial dispute was raised before the Asst. Labour Commissioner (Central) by letter dated 17-3-97. That in the conciliation proceedings the employer contended that Shri R. A. Fernandes is senior to the said three workmen because he was promoted from LDC to UDC prior to Shri S. S. Naik and that seniority list circulated in the year 1986 was not correct. That the conciliation proceedings ended in failure and the failure report was submitted to the Government who referred the dispute to this Tribunal for adjudication. The union contended that since Shri S. S. Naik was senior to Shri R. A. Fernandes, he ought to have been promoted as Senior Labour Inspector and not Shri R. A. Fernandes. The union contended that seniority is based on the date of appointment and the date of promotion as UDC has no relevance. The union contended that Shri S. S. Naik and Shri R. A. Fernandes were appointed on the same date, they were promoted to the post of Jr. Accountant/Labour Inspector on the same date and Shri S. S. Naik was confirmed in the said post on 24-5-85 while Shri R. A. Fernandes was not at all confirmed. The union contended that there is violation of the seniority list and as such Shri R. A. Fernandes is liable to be demoted to the post of Junior Accountant/Labour Inspector and Shri S. S. Naik is liable to be promoted in his place with retrospective effect from the date Shri R. A. Fernandes was promoted to the post of Jr. Labour Inspector with all minority benefits accruing to the post.

3. The employer filed written statement at Exb. 4. The employer stated that Shri R. A. Fernandes was promoted on 2-1-95 but the union raised the dispute about his promotion after more than 2 years which by itself disentitles the union to claim any relief. The employer stated that the seniority list dated 28-2-86 was prepared taking

into consideration the date of confirmation to the post of Jr. Accountant/Labour Inspector for the purpose of seniority in accordance with the Government instructions in force at the relevant time and that subsequently O.M. of the Government of India, Ministry of Personnel P.G. and Pension (Department of Pers & Drawing) No. 18011/1/86-Est/D dated 23rd March 1988 directed that it was not necessary to confirm the employee in each and every post from the date of his appointment/promotion and there would be only one time confirmation for one post while in service and further that it was specifically directed that the existing instructions/rules in respect of the aspects mentioned earlier including seniority aspect stands modified. The employer stated that the said instructions came into force from 15th April 1988 and as such in view of the instructions contained in the said O.M. dated 28-3-88, the date of confirmation as such had no bearing on the fixation of seniority subsequent to 1st April 1988. The employer stated that Shri R. A. Fernandes was appointed as LDC on 6-4-64, promoted as UDC on 3-5-74, promoted as Jr. Accountant on 7-7-77, confirmed against the post of Jr. Accountant on 10-4-89 w.e.f. 7-7-77 and promoted as Sr. Accountant on 2-1-95. Shri S. S. Naik was appointed as LDC on 6-4-64, promoted as UDC on 3-5-74, promoted as Jr. Accountant on 7-7-77, confirmed against the post of Jr. Accountant on 24-5-85 w.e.f. 7-7-77 and promoted as Senior Welfare Inspector on 3-4-95. Shri Jose Dias was appointed as LDC on 11-4-64, promoted as UDC on 1-9-75, promoted as Junior Accountant on 7-7-77, confirmed against the post of Jr. Accountant on 24-5-85 w.e.f. 7-7-77 and promoted as Senior Accountant on 1-10-97. Shri K.M. Manekar was appointed as LDC on 11-4-64, promoted as UDC on 1-5-75, promoted as Junior Accountant on 7-7-77 and confirmed against the post of Junior Accountant on 2-4-85 w.e.f. 7-7-77 and Shri J. Miranda was appointed as LDC on 18-8-64, promoted as UDC on 11-9-75 promoted as Jr. Accountant on 22-8-79, confirmed against the post of Jr. Accountant on 24-5-85 w.e.f. 2-8-79 and promoted as Senior Accountant on 23-1-98. The employer stated that Shri S. S. Naik and Shri R. A. Fernandes were appointed as LDC on the same date i.e. on 6-4-94 but Shri R. A. Fernandes was promoted as UDC on 3-5-74 which is much prior to the promotion of others as UDC on 1-9-75. The employer stated that all throughout Shri R. A. Fernandes was considered as senior to other officials which is evident from the seniority list prepared by the employer in the year 1980 as in the said list Shri R. A. Fernandes is shown at Sr. No. 14 above Shri S. S. Naik who is at Sr. No. 15, Shri Jose Dias at Sr. No. 16 and Shri K. M. Manekar at Sr. No. 17. The Employer stated that the seniority list issued in May 1980 was in respect of seniority in the post of Jr. Accountant to which Shri R. A. Fernandes, Shri S. S. Naik, Shri Jose Dias and Shri Manekar were appointed on regular basis w.e.f. 7-7-77. The employer stated that Shri R. A. Fernandes is senior to the other above officials as he was promoted in the feeder post of UDC much prior to them. The employer stated that the DPC met

on 15-12-94 to consider promotion to the post of senior accountant as per the instructions/rules in force at that time and since Shri R. A. Fernandes was senior of others and was found fit for promotion he was selected and promoted to the post of senior accountant vide order dated 28-12-94 w.e.f. 2-1-95 which is legal. The employer stated that the claim made by the union is liable to be rejected and the reference is liable to be dismissed.

4. The union thereafter filed rejoinder at Exb. 5. The Union stated that the employer deliberately mis-interpreted the instructions of the Government in force at the relevant time with a view to violate the seniority of Shri S. S. Naik who was confirmed as Jr. Accountant w.e.f. 7-7-77. The Union stated that the employer amended Mormugao Dock Labour Board Employees (Recruitment, Seniority and Promotion) Rules 1993 in the Board meeting held on 18-2-94 giving effect to the directions given under O.M. 20011/5/90-Est(D) dated 4-11-92 delinking seniority to confirmation and the said instructions were to come into effect from the date of issue of said O.M. i.e., from 4-11-92. The Union stated that the OM dated 23-3-88 referred to by the employer is not applicable as it was to come into effect from 1-4-88. The Union stated that the date of promotion to the post of UDC has no bearing on the issue involved. The Union stated that Shri S. S. Naik was promoted as Jr. Accountant on 7-7-77 and confirmed w.e.f. 24-5-85 whereas Shri R. A. Fernandes was confirmed as Jr. accountant on 10-4-89 and therefore Shri Fernandes was much junior to Shri S. S. Naik. The Union denied that the seniority list dated 11-3-85 was circulated and further stated that no seniority list was circulated after final seniority list was issued on 28-2-85. The Union stated that the conclusions reached by DPC in the meeting held on 15-12-94 are erroneous as Shri R. A. Fernandes was not senior but Shri S. S. Naik was senior and hence was entitled to be promoted as Sr. Accountant/Sr. Labour Inspector.

5. After the rejoinder was filed the case was fixed for framing issues. At this stage this Tribunal was of the view that in view of the pleadings made by the parties Shri R. A. Fernandes should be joined as a party to the proceedings as the decision in the case was likely to affect him. Accordingly notice was issued to Shri R. A. Fernandes to show cause as to why he should not be joined as a party to the proceedings. In pursuance to the said notice Shri R. A. Fernandes appeared and filed an application dated 1-10-99 at Exb. 6 stating that he has no objection for being impleaded as a party to the proceedings. Hence order was passed impleading Shri R. A. Fernandes as Party II(2) in the proceedings. Thereafter Shri R. A. Fernandes filed written statement at Exb. 7. In the written statement he stated that the union has raised the dispute after a delay of more than 2 years. He stated that from the seniority list dated 28-2-86 it can be seen that the seniority was fixed taking into consideration the date of confirmation to the post of Jr. Accountant/Labour Inspector. He stated that the OM dated

4-11-92 issued by the Ministry of Personnel PG & Pensions (Department of Personnel & Training) New Delhi, and the amendment to the Rule 9 of the Mormugao Dock Labour Board Employees (Recruitment, Seniority and Promotion) Rule 1983 referred to by the Government in the rejoinder states that the seniority of an employee regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of his confirmation and as such seniority is delinked from confirmation. He stated that therefore as on the date of his promotion to the post of Senior Accountant seniority was delinked from confirmation. He stated that he was appointed as LDC on 6-4-64, promoted as UDC on 3-5-74, promoted as Jr. Accountant on 7-7-77 and confirmed on 10-4-89 w.e.f. 7-7-77, promoted as Sr. Accountant on 2-1-95 and is due to retire on 30-9-2001. He stated that he is senior to Shri S. S. Naik and other officials on account of being promoted in the feeder post of UDC much prior to the said other officials including Shri S. S. Naik. He stated that in the seniority list issued by the employer in May 1980, he is shown at Sr. No. 14 above the said officials. He stated that his promotion to the post of Sr. Accountant vide order dated 28-12-94 does not suffer any irregularity or infirmity. The Union thereafter filed rejoinder to the written statement filed by Shri R. A. Fernandes.

6. On the pleadings of the parties, following issues were framed at Exb. 9 :

1. Whether the Party I/union proves that the Party II(1) promoted the Party II (2) Shri R. A. Fernandes to the post of Senior Labour Inspector by violating the seniority of Junior Accountant/Labour Inspectors ?
2. Whether the Party I/Union proves that Shri S. S. Naik is liable to be promoted to the post of Sr. Labour Inspector in place of the Party II (2) Shri R. A. Fernandes with retrospective effect ?
3. Whether the Party I/Union is entitled to any relief ?
4. What Award ?

7. After the issues were framed and before the evidence of the union was recorded the employer filed amendment application dated 10-12-99 at Exb. 11 seeking to amend the written statement. By the proposed amendment the employer sought to correct the date mentioned in para.2(e) of the written statement and also make additional pleadings. Since the Union and Shri R. A. Fernandes did not object to the amendment, the application was allowed vide order dated 11-1-2000. By amending the written statement the employer added para.2(Fa), 2(Fb) and 2(Fc) to the written statement. By way of amendment of the pleadings the employer pleaded as regards the existing of the rule 9 of the Recruitment Rules prior to 18-2-94 and the

Rule 9A and 9B which came into effect after the amendment of the Recruitment Rules. The employer stated that as on the date when the vacancy arose in the post of Sr. Accountant the Rule 9 as amended was in force. Neither the union nor Shri R. A. Fernandes filed any rejoinder after the written statement was amended by the employer.

8. My findings on the issues are as follows :

Issue No. 1 : In the affirmative.

Issue No. 2 : does not arise.

Issue No. 3 : As per para 15 below.

Issue No. 4 : As per order below.

9. Issue No. 1 : The union filed written submissions whereas Adv. Shri Y. V. Nadkarni made his oral submissions. The union submitted that the employer had issued the confirmed seniority list of the Junior Accountants on 28th February 1986, and as per the said seniority list Shri S. S. Naik was placed at Sr. No. 5 and Shri R. A. Fernandes was placed at Sr. No. 10. The union submitted that the said seniority list was not corrected any time after 28-2-1986. The Union submitted that promotion to the post of UDC has no bearing in the present case as Shri S. S. Naik was promoted as Jr. Accountant with effect from 7-7-77 and was confirmed from 24-5-1985 whereas Shri R. A. Fernandes was confirmed with effect from 10-4-1989 and hence Shri S. S. Naik was much senior to Shri R. A. Fernandes and as such he was liable to be promoted in place of Shri R. A. Fernandes. The Union submitted that the facts deposed by Shri S. S. Naik and the documents produced by him have gone unchallenged and the only suggestion that is put to him in his cross examination is that Shri R. A. Fernandes is correctly promoted. The union submitted that the employer's witness Shri Lawrence D'Souza has admitted that Shri S. S. Naik was confirmed on 24-5-85 and the date of confirmation of Shri R. A. Fernandes is not mentioned in the seniority list and that the order dated 10-4-1989 confirming Shri Fernandes was not circulated amongst the staff. The union submitted that the said order has been manipulated by the employer in favour of Shri Fernandes contrary to the rules and directives and in violation of the confirmed seniority list. The union submitted that the employer's witness has admitted that seniority of Shri S. S. Naik as mentioned in the seniority list was not changed till Shri R. A. Fernandes was promoted as Sr. Accountant and that he cannot say in what way the confirmation order dated 10-4-1989 of Shri R. A. Fernandes is applicable for the purpose of his promotion to the post of Sr. Accountant from the post of Jr. Accountant. The union submitted that the said witness has admitted that when the post of Sr. Accountant fell vacant the seniority list was in force and as per the said list Shri S. S. Naik was senior to Shri R. A. Fernandes. The Union submitted that the said witness has admitted that there were no adverse remarks in the C. R. of Shri S. S. Naik. The union submitted that the evidence on record sufficiently proves that

promotion of Shri R. A. Fernandes is in violation of the seniority list.

10. Adv. Shri Nadkarni, the learned Advocate for the employer submitted on the other hand that at the time when the seniority list Exb.W-1 was issued in February 1986, Shri R. A. Fernandes was not confirmed and therefore Shri S. S. Naik was senior to him. He submitted that subsequently by memorandum dated 10th April, 1989 Exb. E-2 Shri R. A. Fernandes was confirmed with effect from 7-7-1977. He submitted in view of the O.M dated 4-11-92 issued by the Ministry of Personnel, P.G. and Revisions (Department of Personnel and Training) New Delhi Rule 9 of the Dock Labour Board Employees (Recruitment, Seniority and Promotion)Rules, 1983 was amended whereby seniority was delinked from confirmation. He submitted the above recruitment rule was amended prior to 31-12-94 when the vacancy to the post of Senior Accountant arose and since Shri R. A. Fernandes was senior to Shri S. S. Naik, he being promoted to the post of UDC prior to him, Shri R. A. Fernandes was promoted to the post of Senior Accountant. He submitted that non preparing of the seniority list a fresh is of no relevance. He submitted that there is no violation of any rule or seniority on the part of the employer in promoting Shri R. A. Fernandes. In support of his contentions he relied upon the judgments of the Supreme Court in the case of (1) The Direct Recruit Class-II Engineering Officer's Association and others v/s State of Maharashtra and others reported in AIR 1990 SC 1607 (2) Jagdish Lal and others v/s State of Haryana and others reported in AIR 1997 SC 2366, (3) Y.V.Rangaiah and others v/s Sreenivasa Rao and others reported in (1983) 3 SCC 284 and (4) State of Rajasthan v/s R. Dayal and others reported in (1997) 10 SCC 419.

11. The Union has examined Shri S. S. Naik in support of its case whereas the employer has examined one Shri Lawrence D'Souza. The dispute which has been raised by the union is that as per seniority list published by the employer Shri S. S. Naik should have been promoted to the post of Sr. Accountant instead of Shri R. A. Fernandes as the name of Shri S. S. Naik was figuring above the name of Shri R. A. Fernandes. It is an admitted fact that before promoting Shri R.A. Fernandes to the post of Sr. Accountants Shri S. S. Naik as well as Shri R. A. Fernandes were working as Jr. Accountants, and they were promoted as Jr. Accountant on the same date, that is, on 7-7-1977. The employer's witness Shri Lawrence D'Souza has stated in his deposition that the post of Sr. Accountant is a promotional post and the feeder post is Jr. Accountant. The union has produced the senior list prepared by the employer at Exb.W-1. This seniority list is admitted by the employer's witness Shri D'Souza in his deposition. The said seniority list is dated 28th February, 1986, and it gives details of staff members seniority wise in the category of Junior Accountant/Labour Inspectors the name of Shri S. S. Naik figures at Sr. No. 5 and that of Shri R. A. Fernandes

figures at Sr. No. 10. As per the said list Shri S. S. Naik as well as Shri R. A. Fernandes were appointed on 6-4-1964 and both were promoted on 7-7-1977. The said list shows that Shri S. S. Naik was confirmed on 24-5-1985 whereas the confirmation date of Shri R. A. Fernandes is not mentioned. The employer's witness Shri D'Souza has stated that Shri R. A. Fernandes was subsequently confirmed in the post of Jr. Accountant vide order dated 10-4-1989 with effect from 7-7-1977. He has produced the said confirmation order/memorandum at Exb. E-2. He has stated that UDC is the feeder post to the post of Jr. Accountant and that Shri R. A. Fernandes was promoted as UDC about one year earlier to Shri S. S. Naik. The fact that Shri R. A. Fernandes was promoted as Jr. Accountant one year earlier to Shri S. S. Naik has not been denied by the union. Shri D'Souza has stated that Shri S. S. Naik was placed at Sr. No. 5 in the seniority list and Shri R. A. Fernandes at Sr. No. 10 because Shri R. A. Fernandes was not confirmed in the post at that time because he had committed certain irregularities. Therefore the fact remains that as per the seniority list prepared on 28th February, 1986, Shri S. S. Naik was senior to Shri R. A. Fernandes in the category of Jr. Accountants.

12. The union's witness Shri S. S. Naik has stated that in the year 1995 the employer promoted Shri R. A. Fernandes instead of promoting him to the post of Sr. Accountant though the persons mentioned at Sr. Nos. 1 to 4 were promoted prior to him as per the seniority list and he produced the representation dated 13-2-97 made by him at Exb. W-4 protesting against the promotion of Shri R. A. Fernandes. In this representation Shri S. S. Naik has requested for correcting the error of promoting Shri R. A. Fernandes to the post of Sr. Accountant instead of him. The employer's witness Shri D'Souza in his deposition has stated that the post of Sr. Accountant became vacant because the person who was occupying the post of Accounts Superintendent which was a higher post to the post of Sr. Accountant was superannuated on 31-12-1994, and therefore Shri R. A. Fernandes was selected by the DPC which met in December, 1994 by applying the amended Rule 9 of the MDLB Employees (Recruitment, Seniority and Promotion), Rules, 1983. He has produced the order dated 28-12-1994 at Exb. E-1 by which Shri R. A. Fernandes was promoted as Sr. Accountant with effect from 2-1-1995. The employer's witness Shri D'Souza has stated in his deposition that when the seniority list Exb. W- He was prepared the criteria that was followed for the seniority was the confirmation in the post. He has stated that Rule 9 of the MDLB Employees (Recruitment, Seniority and Promotion) Rules 1983 was amended on 18-2-1994 in the Board Meeting held on 22-4-1994. He has produced the Agenda of the Board Meeting at Exb. E-3. He has stated that in the said agenda the Rule 9 which was existing earlier as well as the amended rule 9 have been mentioned. He has stated that as per amended rule the criteria for seniority that the person should be confirmed in the post was removed. Adv. Shri Nadkarni, the learned Advocate for the

employer has relied upon the judgments of the Supreme Court in the case of (1) The Direct Recruit Class-II Engineering Officers' Association & Others and (4) Jagdish Lal & Others. In the case of Direct Recruit Class-II Engineering Officers' Association and in the case of Jagdish Lal the Supreme Court has held that the seniority should be counted from the date of appointment and not from the date of confirmation. The employer had already amended its recruitment rules, that is, Rule 9 to the effect that the seniority of an employee regularly appointed to the post according to the rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of confirmation. In the case of R. Dayal (supra) the Supreme Court has held that the posts which fell vacant prior to the amendment of the rules would be governed by the original rules and not by the amendment rules and that the vacancies that arise subsequent to the amendment of the rules are to be filled up in accordance with the law existing as on the date when the vacancies arose. In the case of J. Srinivasa Rao (supra) the Supreme Court has held that vacancies in the promotional posts occurring prior to the amendment of the rules have to be filled up in accordance with the unamended rules. Adv. Shri Nadkarni, the learned Advocate for the employer has submitted that in view of the amendment to the Rule 9 of the recruitment rules. Shri R. A. Fernandes was promoted to the post of Sr. Accountant because he was promoted to the post of UDC a year prior to the promotion of Shri S. S. Naik to the post of UDC and as such Shri R. A. Fernandes was considered to be senior to Shri S. S. Naik. Therefore according to the employer the basis for promoting Shri R. A. Fernandes ahead of Shri S. S. Naik is that he was promoted as UDC prior to Shri S. S. Naik and as such he was senior to him.

13. The agenda of the Board meeting held on 22-4-94 produced at Exb. E-3 refers to the O.M dated 4-11-1992 of the Ministry of Personnel, P.G & Pensions (Dept. Of Personnel and Training), New Delhi. The O.M. dated 4-11-1992 has been produced by the union at Exb. W-7. In this O.M. orders are issued that seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of his confirmation. Based on this order the recruitment rules were amended by the employer in the year 1994 as stated above. The O.M. further states that the orders shall take effect from the date of issue of the said memorandum, and that the seniority already determined according to the existing principles on the date of issue of the orders will not be reopened even if in some cases seniority has already been challenged or is in dispute and it will continue to be determined on the basis of the principles already existing prior to the date of issue of the orders. This means that the said O.M. was not to affect the seniority list Exb. W-1 which was prepared and published on 18-2-1986 as the said list was in existence much prior to the date of the issuing O.M.

dated 4-11-92, Exb.W-7, by the Government of India. Therefore the recruitment Rule 9 which was amended on 18-2-1994 on the basis of the O.M. dated 4-11-92 issued by the Government of India, could not be applied with retrospective effect so as to affect the seniority list which was already published in the year 1986. The employer's witness Shri Lawrence D'Souza has admitted in his cross examination that the post of UDC has nothing to do with promotion to the post of Sr. Accountant. He has stated that it was not mentioned in the seniority list Exb.W-1 nor there was any order stating that in case Shri R. A. Fernandes is confirmed at a later date the seniority list will be refixed accordingly. He admitted that confirmation has nothing to do with the seniority. He also admitted that seniority list Exb.W-1 was not changed till Shri R. A. Fernandes was promoted as Sr. Accountant. This means that the seniority list dated 28th February 1986 was in existence and was in force at the time when Shri R. A. Fernandes was promoted as Sr. Accountant with effect from 2-1-1995 vide order dated 28-12-94 Exb.E-1. The dispute which has been referred by the Government is whether there is violation of the seniority list by the management of the employer as alleged by the union in the letter dated 14-3-97. The letter dated 14-3-97 of the union has been produced at Exb.W-5. In this letter the union has alleged that the management of the employer has violated the seniority list by promoting Shri R. A. Fernandes to the post of Sr. Accountant and overlooking the seniority of Shri S. S. Naik as Shri R. A. Fernandes who ranked 10 while Shri S. S. Naik was ranked 5 in the said seniority list. It is well settled that the Tribunal cannot travel beyond the terms of the reference. As mentioned earlier the seniority list Exb.W-1 was in existence and in force at the time of promoting Shri R. A. Fernandes to the post of Sr. Accountant vide order dated 28-2-1994 with effect from 2-1-1995. The said seniority list shows that as a Jr. Accountant Shri S. S. Naik was ranked at number 5 and Shri R. A. Fernandes was ranked at number 10. The union's witness Shri S. S. Naik has deposed that employees at Sr. No. 1 to 4 of the seniority list in the category of Jr. Accountant/Labour Inspector were promoted prior to him as per the seniority list. Therefore, when the post of Sr. Accountant fell vacant in January 1995 Shri S. S. Naik was liable to be promoted to the post of Sr. Accountant and not Shri R. A. Fernandes, whose name was figuring at Sr. No. 10 of the seniority list, that is much below the name of Shri S. S. Naik whose name was figuring at Sr. No. 5 of the seniority list. Therefore, there is clear violation of the seniority list dated 28-2-1986 Exb.W-1 by the employer in promoting Shri R. A. Fernandes to the post of Sr. Accountant. I, therefore, hold that the union has succeeded in proving that the employer promoted Shri R. A. Fernandes to the post of Sr. Labour Inspector by violating the seniority of Junior Accountant/Labour Inspectors. I, therefore, answer the issue no. 1 in the affirmative.

14. Issue nos. 2 and 3 : The union has claimed that Shri S. S. Naik is liable to be promoted to the post of Sr.

Accountant in place of Shri R. A. Fernandes with retrospective effect because the promotion of Shri R. A. Fernandes is in violation of the seniority list published by the employer, as in the seniority list, Shri S. S. Naik was ranked 5th whereas Shri R. A. Fernandes was ranked 10th. While deciding the issue no.1 it has been held by me that Shri S. S. Naik was liable to be promoted to the post of Sr. Accountant when the post of Sr. Accountant fell vacant in January 1995, and not Shri R. A. Fernandes as, as per the seniority list, in rank Shri S. S. Naik was much above Shri R. A. Fernandes, and the employees at Sr. Nos. 1 to 4 of the seniority list were already promoted earlier. Adv. Shri Nakarni, the learned Advocate for the employer has submitted that promotion which has already taken place should not be disturbed at this stage. He has submitted that the relief if at all should be granted to Shri S. S. Naik at the most for three months as he has admitted that about three months after the promotion of Shri R. A. Fernandes, he was also promoted.

15. It is an admitted fact that Shri R. A. Fernandes was promoted as Sr. Accountant from 2-1-1995. Shri S. S. Naik, the union's witness has admitted in his deposition that after Shri R. A. Fernandes was promoted, he was also promoted about two or three months thereafter. Neither the union nor the employer has brought on record the exact date of promotion of Shri S. S. Naik to the post of Sr. Accountant. However, the fact remains that Shri S. S. Naik was also promoted after Shri R. A. Fernandes was promoted. After the evidence of the employer was completed the case was fixed for the evidence of Shri R. A. Fernandes who was impleaded as a party to the present proceedings. However, he remained absent. An application was filed on behalf of the employer for taking on record the document namely the memorandum dated 7-2-2001 whereby Shri R. A. Fernandes was informed that he is due for retirement on superannuation from service with effect from 31-5-2001 (A.N.). The union gave no objection for taking the said memorandum on record. Accordingly the said memorandum was taken on record and marked as Exb.E-4. Thus the union admitted that Shri R. A. Fernandes retired on superannuation from service with effect from 31st May 2001. In the circumstances the question of ordering promotion of Shri S. S. Naik in place of Shri R. A. Fernandes with retrospective effect does not arise. I, therefore, hold so and answer the issue no. 2 accordingly. However, since Shri S. S. Naik was senior in rank to Shri R. A. Fernandes as per the seniority list dated 28-2-1986 Exb.W-1, I hold that Shri S. S. Naik is entitled to promotion as Sr. Accountant from 2nd January 1995 with all consequential benefits as Shri R.A. Fernandes was promoted to the said post in violation of the seniority list. I, therefore, answer the issue no. 3 accordingly.

Hence, I pass the following order.

ORDER

It is hereby held that the promotion of Shri R. A. Fernandes to the post of Sr. Accountant with effect from

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2-1-1995 is in violation of the seniority list dated 28-2-1986. I hereby further hold that Shri S. S. Naik, is entitled to promotion as Sr. Accountant from 2-1-1995 and is entitled to all consequential benefits from the said date.

No order as to costs. Inform the Central Government accordingly.

AJIT J. AGNI, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 64.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/प्रम न्यायालय अजमेर के पंचाट (संदर्भ संख्या 3/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-17012/15/2000-आईआर(बी- II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 64.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2001) of the Industrial Tribunal-cum-Labour Court, Ajmer as shown in the Annexure in the Industrial Dispute between the employer in relation to the management of LIC of India and their workman, which was received by the Central Government on 11-12-2003.

[No. L-17012/15/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

अनुबन्ध

प्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर (राज.)

पीठासीन अधिकारी :

अनुल कुमार जैन, आरएचजे.एस

प्रकरण संख्या-सीआईटीआर 03/01

[केंद्र सरकार का रेफरेंस पत्र क्र. एल-17012/15/2000(बी- II)]

नई दिल्ली दिनांक 11-8-2000]

इश्वर सिंह पुत्र स्व. रणधीर सिंह (प्रार्थी ने उम्र व जाति नहीं बतायी है)

नियासी-बड़ली तहसील-मसूदा जिला-अजमेर ...प्रार्थी

बनाम

1. भारतीय जीवन बीमा निगम,

क्षेत्रीय कार्यालय,

विजय नगर, जरिये प्रबंधक

2. वरिष्ठ मंडल प्रबंधक,

भारतीय जीवन बीमा निगम, अजमेर

...अप्रार्थीगण

उपस्थित : श्री एस. के. भार्गव, एडवोकेट, प्रार्थी की ओर से।

: श्री अशोक माथुर, एडवोकेट, अप्रार्थीगण की ओर से।

दिनांक 28-11-2003

अवार्ड

इस प्रकरण में केंद्र सरकार प्रम मंत्रालय से प्राप्त रेफरेंस इस प्रकार था कि :— “क्या विपक्षीगण द्वारा भूतपूर्व वाटरमैन, ईश्वर सिंह का दिनांक 17-7-99 से किया गया टमिनेशन वैध एवं उचित है ? यदि नहीं तो श्रमिक क्या राहत पाने का अधिकारी है ?”

उक्त श्रम विवाद (रेफरेंस) प्राप्त होने पर प्रार्थी ईश्वर सिंह ने अपने वकील श्री एस.के. भार्गव के माध्यम से स्टेटमेंट ऑफ क्लेम दि. 24-4-01 को हमारी न्यायालय में प्रस्तुत किया था। विपक्षीगण की ओर से क्लेम का जवाब 3-8-01 को पेश किया गया है। साक्ष्य में प्रार्थी ने उक्त हलफनामा पेश किया है जिस पर विपक्षी ने उससे जिरह की है। विपक्षीगण की ओर से निगम के प्रशासनिक अधिकारी एस.सी. मंगल का हलफनामा पेश हुआ है तथा प्रार्थी के वकील श्री एस.के. भार्गव एडवोकेट ने उससे जिरह की है। दस्तावेजी सबूत में प्रार्थी ने प्रदर्श ढब. 1 लागायत ढब. 15 फोटो कॉपी दस्तावेज साक्ष्य में प्रदर्शित कराये हैं जबकि विपक्षीगण की ओर से प्रदर्श एम-1 लागायत एम-12 फोटो कॉपी प्रदर्शित कराये गये। इस प्रकरण में मैंने उभयपक्ष की मौखिक बहस दि. 8-7-03 को ही सुन ली थी लेकिन उभयपक्ष ने बहस का लिखित सारांश पेश करने की इच्छा जाहिर की थी जिसकी वजह से प्रकरण विलंबित भी हुआ लेकिन फिर भी केवल मात्र विपक्षीगण की ओर से ही बहस का लिखित सारांश पत्रावली में पेश हुआ है तथा श्रमिक पक्ष ने अपनी बहस का लिखित सारांश पेश नहीं किया है।

स्टेटमेंट ऑफ क्लेम में प्रार्थी ईश्वर सिंह ने लिखाया है कि वह नियमित चयन प्रक्रिया के उपरांत 15-4-97 से विपक्षीगण के बांच ऑफ विजयनगर में जल-कर्मी एवं चतुर्थ श्रेणी कर्मचारी के पद पर नियुक्त किया गया था तथा उससे लागातार 780 दिन तक कार्य लेने के उपरांत विपक्षी ने उसे धारा 25एफ. आई.डी. एक्ट 1947 के प्रावधानों की पालना किये बगैर गैर-कानूनी रूप से नौकरी से दि. 17-7-99 से हटा दिया। प्रार्थी का यह भी कहना था कि उससे कनिष्ठ कर्मचारी तथा उसके साथ वाले कर्मचारी आज भी विपक्षीगण के यहां काम कर रहे हैं। विपक्षीगण ने स्टेटमेंट ऑफ क्लेम के जवाब में प्रार्थी द्वारा अंकित किये गये तथ्यों को गलत बतायाहै। विपक्षी का कहना है कि 19-5-99 से 17-7-99 तक केवल मात्र साठ दिन के लिए प्रार्थी को अस्थाई नियुक्त तदर्थ आधार पर दी गयी थी इससे पूर्व 15-4-97 से 8-7-97 तक भी प्रार्थी को पूर्णतः अस्थाई रूप से जल-कर्मी दैनिक वेतन कर्मी के रूप में नियुक्त किया गया था। विपक्षी का कहना है कि नियमों के विपरीत प्रार्थी को बैंकडोर एंटी नहीं दी जा सकती है।

प्रार्थी ने जिरह में बयानों के पृष्ठ सं. 2 पर स्वीकार किया है कि उसे प्रदर्श एम-5 के द्वारा केवल मात्र साठ दिन के लिए नियुक्त किया गया था तथा साठ दिन गुजर जाने के बाद उसकी सेवा स्वतः ही समाप्त हो गयी थी। जिरह में पृष्ठ सं. 3 पर प्रार्थी ने यह भी स्वीकार किया है कि उसे नौकरी से हटाये जाने के बाद विपक्षीगण ने अन्य किसी कर्मचारी को दैनिक वेतन भोगी कर्मचारी के रूप में नियुक्त नहीं किया था तथा उसके बाद लगाया हुआ दैनिक वेतन भोगी कर्मचारी विपक्षीगण के यहां वर्तमान में कार्यरत भी नहीं है। इस प्रकार प्रार्थी के बयानों से न तो प्रार्थी का 240 दिन का सेवाकाल साबित होता है और न ही धारा 25एफ

अथवा 25एच औद्योगिक विवाद अधिनियम के प्रावधान वर्तमान प्रकरण में लागू होना एवं उनकी विपक्षीगण द्वारा अवहेलना किया जाना, प्रार्थी सिद्ध नहीं नहीं कर सका है।

स्टेटमेंट ऑफ क्लेम से नितांत कांट्राडक्टरी एक अन्य कहानी प्रार्थी ने दि. 6-9-03 को दरखास्त पेश करके उसमें अंकित की थी इसमें प्रार्थी ने लिखा है कि विपक्षीगण के यहां कभी रमेश बन के, कभी मुकेश जोशी बनकर, कभी विष्णुदत्त बनकर तथा कभी अबूबकर सलीम के नाम से कार्य किया था तथा उनके फर्जी हस्ताक्षर भी उसने खुद ने किये थे प्रार्थी द्वारा दी गयी उक्त दरखास्त ही प्रार्थी की कहानी को नितांत इत्ता होना प्रमाणित करती है। वैसे भी छद्म नामों से पब्लिक अंडरटेकिंग में काम करना "वोटिंग-बाई-परसोनेशन" की परिभाषा में अपराध की त्रेणी में भी आ सकता है। प्रदर्श डब. 14 की पुश्त पर पहले ईश्वर सिंह ने हस्ताक्षर किये हैं तथा उसे काटकर मुकेश गर्ग ने हस्ताक्षर किये, प्रतीत होते हैं। दोनों हस्ताक्षर एक ही व्यक्ति के हैं, यह मानने का हमारे पास कोई ठोस आधार नहीं है। दस्तावेजात् प्रदर्श डब. 1 लगायत डब. 15 तभी अप्रमाणित फोटो कॉपियां हैं। इन सब का भी मैंने अवलोकन किया, इन सब दस्तावेजात् से भी न तो यह साबित होता है कि सेवामुक्ति के तुरंत पूर्व प्रार्थी ने 240 दिन अथवा उससे अधिक अवधि के लिए कार्य किया हो और न ही इनसे यह साबित होता है कि प्रार्थी के भाग्य में धारा 25एच औद्योगिक विवाद अधिनियम 1947 का विपक्षीगण ने उल्लंघन किया हो।

विपक्षीगण द्वारा पेश किये गये फोटो कॉपी दस्तावेजात् प्रदर्श एम-1 लगायत एम-12 का भी मैंने अवलोकन किया। उक्त दस्तावेजात् की पुष्टि विपक्षीगण के गवाह एस.सी. मंगल के बयानों से होती है। इस गवाह से प्रार्थी के बकील श्री एस.के. भार्गव ने जिरह भी की है। जिरह में इस गवाह से भी प्रार्थी यह नहीं कहलवा सका है कि सेवामुक्ति से तुरंत पूर्व के वर्ष में उसने विपक्षीगण के यहां 240 दिन या उससे अधिक अवधि के लिए किया हो। धारा 25एच औद्योगिक विवाद अधिनियम 1947 का उल्लंघन भी इस गवाह से जिरह में प्रार्थी साबित नहीं करवा सका है।

इस प्रकार इस प्रकरण में प्रार्थी द्वारा पेश किया गया स्टेटमेंट ऑफ क्लेम स्वीकार किये जाने योग्य नहीं है, जो एतद्वारा खारिज किया जाता है तथा अवार्ड इस प्रकार पारित किया जाता है कि प्रार्थी दि. 17-7-99 से की गयी खुद की सेवामुक्ति को अवैध या अनुचित होना प्रमाणित नहीं कर सका है। इस संबंध में वह विपक्षीगण से कोई गहर याने का अधिकारी भी नहीं है।

अनुल कुमार जैन, न्यायाधीश

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 65.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय नं. - 1, मुम्बई के पंचाट (संदर्भ संख्या 7/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-12012/281/91-आईआर(बी-11)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 65.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 7/92 of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workman, received by the Central Government on 11-12-2003.

[No. L-12012/281/91-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

Present

Shri Justice R.S. Verma,
Presiding Officer

Reference No. CGIT-1/7 of 1992

Parties:- Employers in relation to the management of
Bank of Baroda

and

Their workman

Appearances:-

For the Management	:	Shri Talsania & Shri Kantharia Advocates
For the Workman	:	Shri Kulkarni, Advocate
Industry	:	Banking
State	:	Maharashtra

Mumbai, dated the 3-6-1996

AWARD (Part-I)

The appropriate Government has referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bank of Baroda in terminating the services of Shri S.P. Bhalerao is justified? If not, to what relief the workman is entitled?"

2. The undisputed facts of the case are that the workman Shri S.P. Bhalerao joined the services of Bank of Baroda on 4-6-1976. In due course of time, he was promoted as Head Cashier and at the relevant time, he was posted at Bhadgaon.

3. S/Shri R.R. Mohassir, D.M. Patil, L.Y. Patil, K.N. Sonwane and V.P. Nishandar were the customers of the Bhadgaon Branch of the Bank and had their respective accounts with the Bank. Each one of them had been issued a pass book pertaining to his respective account.

4. Since a domestic enquiry was contemplated against Mr. Bhalerao, he was placed under suspension issued by the competent authority on 12-5-1982. This was

followed by a charge sheet dated 26-7-1982 whereby he was charged as follows :—

"During the period you were working as Head Cashier at our Bhadgaon Branch, it has been reported against you as under :

During the months of March, April and May, 1982, you have made various debit and credit entries not supported by vouchers, are as follows :

Dated	Ledger/ A/c. No.	Name of party	Amount Rs.	Whether debit credit voucher was pre- pared.
5-4-82	Ledger No. 3 A/c. No. 251	Mr. R.R. Moharir	8,000/-	No
5-4-82	Ledger No. 3 A/c. No. 251	Mr. R.R. Moharir	9,000/-	No
3-4-82	Ledger No. 3 A/c. No. 672	Mr. D.M. Patil	8,000/-	No
Nil	Ledger No. 7 A/c. No. 9/1554	Mr. D.C. Patil	5,000/-	No
Nil	Ledger No. 7 A/c. No. 1566	Mr. L.Y. Patil	5,000/-	No
7-4-82	Ledger No. 10 A/c. No. 2067	Mr. K.N. Sonwane	10,000/-	No
13-4-82	-do-	-do-	10,000/-	No
13-4-82	Ledger No. 12 A/c. No. 2756	Mr. V.P. Nishandar	5,000/-	No

In view of the above, the Bank charges you as under :

(a) Defrauding the Bank which is an act prejudicial to the interest of the Bank which is a gross misconduct in terms of clause 19.5(j) of Bipartite Settlement, 1966;

(b) Doing acts which are likely to involve the Bank in serious loss which is a gross misconduct in terms of clause 19.5(j) of Bipartite Settlement, 1966;"

5. One Mr. K.V.I. Kupperi was appointed Enquiry Officer. The enquiry commenced on 20-10-82. the workman denied the charges. A domestic enquiry ensued at which the management led some evidence. The workman also led some defence evidence. During the course of enquiry, one Shanmugam was appointed Enquiry Officer vice Sh. Kupperi.

6. After hearing the two sides and relying upon the evidence led before him, the Enquiry Officer submitted a report, finding the workman guilty of the charges stated above. The Disciplinary Authority considered the report of the Enquiry Officer, concurred with him and issued a show cause notice to the workman why the punishment proposed in the notice be not inflicted.

7. The workman submitted his reply to the show cause notice, appeared before the Disciplinary Authority along with his representatives Mr. P.R. Kapadi and S.B. Nakhte. The Disciplinary Authority considered the reply, heard the workman and his representatives and passed the order dated 24-01-1986 dismissing the workman. Workman took out an appeal, which did not succeed.

8. The union raised an industrial dispute which met failure in conciliation and was eventually referred to this Tribunal by the appropriate Government.

9. In the present proceedings, the union has inter alia challenged the legality, fairness and propriety of the domestic enquiry on grounds which shall be shortly noticed. At this juncture, the issue to be adjudicated upon is :

"Is the Domestic Enquiry vitiated on the ground that it was not fair and legal for the reasons stated in the statement of claim paras 3A to F".

10. Both the sides have led oral as well as documentary evidence, which shall be noticed at the appropriate stage.

11. At the outset, I may state that though the workman contested the charges in the domestic enquiry, yet at the time of oral arguments before the enquiry officer he and his representatives made the submission:

"All the entries in the chargesheet were nothing but plain mistakes of commission/omission by the chargesheeted employee without wilful intention to

defraud the Banks and misappropriation of funds."

12. In his reply to the show cause notice issued by the Disciplinary Authority, he inter alia stated:

"This is the first time where I have committed a mistake and there was no criminal intention."

In that very reply, he reiterated:

"It is significant to note here that there is no monetary loss caused to the Bank consequent to the acts of omission/commission on my part."

13. The aforesaid admissions of guilt were unequivocally reiterated in the memo of appeal in the following words:

"During this period of my service at Bhadgam Branch, certain acts of commission/omission were committed by me for which I was chargesheeted and suspended and enquiry was conducted against me."

He again reiterated this in the following words:

"Sir, I have already submitted to the Regional Manager (Nagpur) under what circumstances I have committed mistakes for which I regret very much. However, I put on record that in this episode, Bank has not suffered any monetary loss."

14. Here, it would be pertinent to note that domestic enquiries are made with a view to ascertain guilt or for that matter innocence of the delinquent official. Where facts are not in dispute, and the guilt is admitted, and enquiry may not at all be necessary. In certain cases, as in the present case, the delinquent official initially denied his guilt altogether but when faced with over-whelming evidence, at a later stage admitted his guilt and pleaded extenuating circumstances so that a mild punishment is imposed. The question is whether in such a case, the delinquent official can be permitted to negate the entire enquiry by picking up holes in the domestic enquiry and contend that enquiry is bad even though acts of omission and commission are squarely admitted. To my mind, a delinquent official, who admits his guilt at some stage of the domestic enquiry (an appeal being continuation of the original proceedings) can not invoke to his aid each and every procedural infraction to contend that enquiry stood vitiated, even though he did commit the guilt for which he had been punished. This is the core issue in the case and in my firm opinion, such a stand can not be allowed to be taken because procedural rules are mere handmaids of justice and their supposed or even real infraction can not be invoked to nullify a finding of guilt, which is unequivocally buttressed by subsequent admissions, voluntarily and consciously made.

15. It would be in this background that I shall examine the alleged lapses in the domestic enquiry and see

if they can be said to be sufficient so as to enable me to pronounce the entire domestic enquiry as unfair, illegal and improper.

16. Now para 3A to F of the written statement of claim wherein alleged illegalities/irregularities have been stated, reads as follows:

- (A) That the Bank had not given either the list of witnesses or the list of documents in support of the allegations of misconducts to the workman alongwith the charge-sheet dated 26-7-1982.
- (B) That though the charges levelled by the Bank against the workman directly related to six outside parties who were the material witnesses, the Bank did not examine any of these witnesses. As a result of this, the charges against the workman remained unproved as the Bank has withheld the material witnesses.
- (C) That the workman concerned had repeatedly requested the Bank to permit him to be defended by an Advocate in the enquiry as provided in the bi-partite settlement, but the bank as well as the Enquiry Officer did not allow the workman concerned to be defended by an Advocate in the Enquiry. Thus, the workman concerned could not defend himself against the serious allegations of misconducts levelled by the Bank in the Charge-sheet dated 26-7-1982.
- (D) That the Enquiry Officer had not explained day-to-day proceedings of the enquiry to the workman concerned.
- (E) That the signatories of the documents on which the Bank had relied were not examined in the enquiry. Thus, the documents produced by the Bank and relied in the enquiry were not duly proved by bringing the necessary evidence before the Enquiry Officer.
- (F) That the Bank had arbitrarily stopped the Head Cashier's allowance of the workman with effect from March, 1985 on a plea that he was promoted to the post of Officer with effect from 25-3-1985."

17. Now, the first objection is that the workman was not supplied with the list of documents and list of witnesses along with the chargesheet. In his cross-examination dated 29-3-94, he admitted "I was supplied with the list of documents on the first date of enquiry". He, however, stated that he was not supplied with the test of witnesses. But, this appears to be an after thought because the only grievance in this regard was that list of witnesses was not supplied with the chargesheet. Mr. Kupperi has categorically stated in his cross-examination: "I had before commencement of the enquiry but after service of chargesheet ensured that Mr. Bhalerao is supplied with list of witnessses and list of documents. It is to be borne in

mind that the short question at the domestic enquiry was if the workman had made debit and credit entries without supporting vouchers and thus they were presumably fictitious. The presenting officer examined witnesses P.J. Shah, M.Y. Kale and K.D. Chitnis to prove that the impugned entries were in handwriting of the workman. Out of these three witnesses, N.Y. Kale frankly admitted that he was not conversant with the handwriting with regard to the entries but the other two witnesses, both employees of the Branch in which the workman was working identified the handwriting of the workman. The witnesses were examined in the presence of the workman and he had ample opportunity to cross-examine them. No prejudice has been shown to have been caused to the workman. In my opinion, if the list of witnesses and list of documents were not supplied with the chargesheet, but had been supplied before the commencement of the enquiry, there was a substantial compliance of the principles of natural justice and the grievance has no merit whatsoever.

18. The next grievance is that the management did not examine the independent witnesses in whose ledgers, the fictitious entries are said to have been made. It is vehemently urged that had these witnesses been examined, the workman could have demolished their evidence by proper cross-examination. True, that the management did not examine the witnesses whose names occurred in the chargesheet. But, it is extremely doubtful, if they could have afforded any assistance in deciding the question, if the impugned entries were in the hand of the workman. It was discretion of the management to chose its witnesses to prove its case. If the workman thought that the evidence of the said witnesses could have been of some help in deciding the question; he could have got them summoned.

19. A large number of rulings were cited by Shri Kulkarni to show that non-production of the witnesses, whose names occurred in the chargesheets was improper.

1991 (62) FLR 263 U.P. State Road Transportation case pertained to checking of a bus but the principal officer who checked the bus witnesses in whose presence the checking was done were not examined. It is obvious that the evidence of these witnesses was necessary to unfold the case of the administration and since they were withheld and the witnesses who were examined, could not satisfactorily answer many questions put to them, it was held that withholding of the witnesses was bad.

In 1987 (II) CLR 269 Kumar Ram Mandan, the enquiry was conducted in English although the petitioner had requested that it should be conducted in Hindi or Marathi as the workman did not know Hindi; moreover the Presenting Officer himself appeared as a witness and his evidence was made use of. A material witness was withheld and enquiry was held to be vitiated because it was held that the enquiry was not bonafide. In my opinion, this ruling is of no assistance to the workman at all.

In 1985 (I) CLR 314 Ms. Sahney Kirkwood Pvt. Ltd. the enquiry Officer did not permit the chargesheeted employee to cross-examine a witness of the management and relied upon an alleged admission of guilt, even though such guilt had not been accepted and to boot a material witness was not examined, the enquiry was held to be vitiated. This is again distinguishable on facts and is of no help to the workman.

In 1967 (I) LLJ 93—Harishchandra Pathak, the finding of guilt was based on inferences and material witness who could have given direct testimony was withheld and hence it was held that the enquiry was not proper. Moreover, that was a case of no evidence against the employee. Hence, this case is also of no assistance.

1988 (I) LLN 153 Broja Ballav Ghose is a case where the employee was charged for being in possession of assets disproportionate to know sources of income. The Enquiry Officer included in the said assets two properties which did not belong to the employee. The Enquiry Officer thought that the properties were benami in the name of the mother. For arriving at the conclusion three witnesses were proposed to be examined but were not at all examined. Hence, it was held that the enquiry was vitiated. this precedent also is of no avail to the workman.

At cost of repetition, I would like to state that in the present case, the enquiry officer had before him the testimony of the two employees of the bank who were conversant with the handwriting of the workman and they had proved such handwriting. Hence, none of the rulings referred to above support the case of the workman.

20. The next grouse was that the workman was not permitted to be defended by a lawyer. I have gone through the relevant clause of the bipartite settlement which allows engagement of a lawyer with the consent of the bank. In the present case, the bank never consented. Hence, the workman, could not, as of right claim representation through a lawyer. At best it was a contingent right depending upon the concurrence of the bank, which was never accorded. Hence, the enquiry officer can not be faulted, if he did not allow engagement of a lawyer.

In 1991 (I) CLR 988 J.K. Agrawal, the management was represented by a man of law yet the delinquent official was denied services of a lawyer and it was held that it was an improper exercise of discretion. The same was the position in 1983 (I) LLJ 1. The Board of Trustees of the Part of Bombay and the apex court ruled that denial of services of a lawyer in such a case was improper when the management was represented by two law officers. Hence, this case does not help the workman.

In 1984 (49) FLR 86 Ghatge Patel Transport Pvt. Ltd., the workman was pitted against a trained and qualified Personnel Officer and numerous complex questions of law and fact were involved by the employee was not allowed

representation through a lawyer, it was held that the enquiry was bad. In the present case, there were no complicated questions of facts or law. The only question was if the impugned entries had been made by the delinquent workman and that too without supporting vouchers. The workman was an experienced bank employee. Management was not represented by a person qualified in law or personnel matters. Hence, this ruling has again no applicable.

Reliance was then placed upon 1987 (II) CLR 31 Shri Nilabja Das in which relevant Rule 19.12(a)(iii) permitted engagement of a lawyer, which rule was similar to the one cited before me. In that case, the charges against the employee were very grave and serious. The employee was young in age and inexperienced. Keeping all the circumstances in view, it was held that the refusal of the assistance of lawyer was bad. In the present case, the workman was an experienced employee with 10 years of standing, having joined service on 4-6-76 in the clerical cadre and had been promoted to officers cadre on 25-3-85. He was, thus not a raw ignoramus. Moreover, the admissions made about the guilt go to show that no prejudice was caused, if a defence lawyer was not permitted.

1988 (I) LLJ 385 Pushpa Iyengar turned on the facts of that case.

To seem up, I find that in the present case when the guilt was admitted, though belatedly, refusal to seek assistance of a lawyer did not prejudice the workman so as to entitle him to say that the enquiry has been vitiated or has been held in violation of principles of natural justice.

Before concluding on this aspect of the case, I would like to extract the dictum of the apex court in 1993 (I) CLR 253 Crescent Dyes & Chemicals Ltd., where the apex court said :

"11. From the above decisions of the English Courts it seems clear to us that the right to be represented by a counsel or agent of one's own choice is not an absolute right and can be controlled, restricted or regulated by law, rules or regulations. However, if the charge is of a serious and complex nature, the delinquent's request to be represented through a counsel or agent could be conceded.

12. The law in India also does not concede an absolute right of representation as an aspect of the right to be heard, one of the elements of principle of natural justice. It has been ruled by this court in (i) Kalindi (N) & Ors. v. Tata Locomotive & Engineering Co. Ltd. Jamshedpur (1960) 3 SCR 407, (ii) Brooke Bond India (P) Ltd. v. Subha Raman (S) & Anr. 1961 2LLJ 417, and (iii) The Dunlop Rubber Co. v. Workman (1965) 2 SCR 139, that there is no right to representation as such unless the company by its Standing Orders recognises such a right."

Hence, thus grievance is not of much substance.

21. The next grievance is that the enquiry officer did not explain to him day to day proceedings of the enquiry. In cross-examination 29-03-94, the workman categorically admitted :

"It is true that at the end of the days proceedings, I was explained the proceedings."

This admission demolishes this ground altogether and this ground deserved to be stated only for the sake of rejection.

22. In clause (E) of the grounds, it was stated that signatories of the documents on which the Bank had relied upon were not examined in enquiry. This is really a repetition of what was stated in clause B of para 3 of the written statement of claim. I have exhaustively dealt with this aspect earlier and I find no substance in the charge.

23. Clause (F) the said para has nothing to do with the validity or invalidity of the enquiry and hence it does not assist the workman.

24. Two more infirmities were pointed out during the course of enquiry, though not specifically pleaded. Shri Talsania objected to the arguments advanced but refuted that in fact there were any infirmities. Hence, I may deal with these alleged infirmities as well, even though not pleaded. The first infirmity that was pointed out was that the enquiry officer cross-examined the witnesses and workman and his witnesses were examined further and thus altogether wrong procedure was adopted. Reliance was placed upon 1991 (II) CLR 225 Shantilal M. Marwad. I may state that the Enquiry Officer in this case was not a legally trained person. However, this alleged infraction loses significance when it is seen that eventually the guilt was admitted.

25. Likewise, a contention was raised that the Enquiry Officer went on interrogating and cross-examining the workman as each documents was tendered or witnesses were produce. It was a curious mode adopted by the Enquiry Officer, But for the reason given above, this infirmity is also of no consequence. Some precedents have been cited on the two points but I have not encumbered this order by citing them as in the facts of the present case, the infirmities alleged have no material effect on the outcome.

26. As a result, I do not find any infirmity in the domestic enquiry which may go to vitiate the same. Now, the matter be fixed for hearing on the question if the punishment imposed on the workman is not just and proper and deserved to be modulated u/s. 11A of the Industrial Disputes Act.

Put up on 28-6-1996.

R. S. VERMA, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 66.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एच.पी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण I, मुम्बई के पंचाट (संदर्भ संख्या 03/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20040/96/95-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 66.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/97) of the Central Government Industrial Tribunal/Labour Court I, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of HPCL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20040/96/95-IR (C-1)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

Present

SHRI JUSTIC S. C. PANDEY

Presiding Officer

Reference No. CGIT-03/1997

PARTIES :

Employers in relation to the management of

Hindustan Petroleum Corporation Ltd.

And

Their Workman

APPEARANCES

For the Management : Ms. Nandni Menon

For the Workman : Mr. M. B. Anchan Adv.

State : Maharashtra

Mumbai, dated the 20th day of November, 2003

AWARD

1. This is the reference made by the Central Government, in exercise of its powers under clause (d) of Sub-section I and Sub-section 2A of Section 10 of Industrial Disputes Act (henceforth the Act) for resolving the dispute between P.D. Dongre (the workman for short) and the Hindustan Petroleum Corporation Ltd. (the company for short). The terms of the dispute as referred to in the schedule are as follows :

"Whether the action of the management of Hindustan Petroleum Corporation Ltd., in terminating the services of Shri P. P. Dongre w.e.f. 20-I2-1993 is justified? If not, to what relief Shri P. D. Dongre is entitled?"

2. (a) The workman was serving as a Clerk-cum-Typist in the reimbursement Section of the Finance Department of the Head Quarters of the company known as Petroleum House situated at J. Tata Road, Mumbai. The workman was given a charge sheet dated 25-II-88. The workman was alleged to have committed certain acts of omission and commission amounting to fraud and dishonesty and using his official position for personal gain as per statement of allegations and charge sheet. It appears that workman was charged with commission of act amounting to offence involving moral turpitude, breach of rules, failure to account, Habitual negligence etc. These are the charges on which the workman was asked to give reply. It is not in dispute that company held an enquiry against the workman. He was found to be guilty of the acts of commission and omission mentioned in the charges. The workman was removed from service by order dated 20-12-93. The workman submitted that charge sheet was bad in law because it was not in accordance with Model Standing Orders applicable to the company. Therefore, issuance of charge sheet bad in the eyes of law.

(b) The alternative claim of the workman was that out of several charges framed against him the following charges were covered by the misconduct mentioned in Model Standing Orders 14 (b).

Dishonesty in connection with the business of the Corporation (clause No. a)

Model Standing order No. 14 (g).

Habitual breach of law applicable to the Establishment (charge No. d) Model Standing No. 14 (1).

Habitual negligence or neglect of the work (charge No. I) therefore, it was submitted that charges are not sustainable.

(c) The workman further pleaded that the principles of natural justice were violated because the company had held the said charge sheet. The first enquiry Shri R. G. Subramanian, the Enquiry Officer, did not permit the workman to be represented by Shri Bhagwan Kulkarni, the Secretary General of the Employees Union. The enquiry was held ex parte. However that enquiry was set aside. A new enquiry was held against the workman with Shri S. Mukherjee as the Enquiry Officer and Shri B. Sanghvi as the Presenting Officer. The workman claimed that the company violated the principles of natural justice when it failed to communicate to him the name of the Presenting Officer Shri B. Sanghvi.

(d) The workman submitted that the principles of natural justice were violated because dishonoured cheques and the register of Dishonoured cheques

maintained by the Reconciliation Department was not produced. It was further submitted that the two letters dated 20-3-1992 and 21-4-1992 were written by the Chief Manager of the Bank of India. He was not produced for cross examination despite the request on behalf of the workman before the enquiry officer.

- (e) The workman submitted that the enquiry officer was prejudiced against. Thus, the rule against bias was violated.
- (f) The workman submitted that the finding of the facts were perverse.
- (g) The workman submitted the show cause notice showed that the disciplinary authority had made up its mind before giving opportunity to the workman.
- (h) It was further submitted that his past record was clean and the sentence imposed upon him was disproportionate to his misconduct. The order of removal should not have been passed.

3. The written statement of the company pointed out that the charges were framed against the workman. Each of the charge was supported by the statement of allegations. The details of the charges and the allegations were reproduced by the Bank in paragraph 2 and paragraph 3 respectively. It was admitted that the first enquiry was held ex parte as alleged by the workman but it was set aside and fresh opportunity was given to workman. In this enquiry, the workman was properly represented. In this enquiry full opportunity was given to the workman to defend himself. The workman was allowed to cross examine the witness and was allowed oral and documentary evidence. It was stated that at the time of enquiry there were no certified standing orders. The workman was governed by model standing orders given in the Employment Standing Orders (Central Rules) 1946. It was denied that the charges framed against the workman were vitiated because they were not covered by the sub clauses of clause 14 providing for misconduct in the Model Standing Orders. It was submitted that the misconducts categorized in the Model Standing Orders are not exhaustive. It was denied that principles of natural justice were violated. The workman was given full opportunity to defend himself. It was stated that second show cause notice was issued for showing cause against the punishment and the principles of natural justice were not violated. The enquiry was not vitiated merely because the name of presenting officer was not disclosed. The procedure followed during the enquiry was fair. The enquiry was held *de novo*. The workman was given full opportunity to defend. It was denied that the principles of natural justice were violated because of non production of dishonoured cheques and the Register mentioned by the workman in his statement of claim. It was denied that non examination of the Chief Manager of Bank

of India amounted to violation of principles of natural justice. It was denied there was any bias against the workman. The findings of fact are not perverse. All other allegations were specifically denied. It is not necessary to deal them specifically with view to avoid repetition. It was submitted that the punishment imposed upon the workman was just and proper.

4. The workman filed a rejoinder long and rambling. No new point was raised in the rejoinder. Therefore, it is not necessary to refer to it.

5. The order sheet dated 5-5-1999 records that issues were framed by Mr. Justice Govardhan. However, no issues had been framed by the tribunal. The evidence was started on the assumption that the issue as framed by the employer were adequate. The preliminary issues in this case are fairly simple in nature. No objection was raised even when the evidence was recorded. In fact no prejudice is caused to the workman by non framing of issues. The issues are framed now.

- (i) Whether the charges as framed are defective?
- (ii) Whether the workman was given full opportunity to defend himself?
- (iii) Whether the findings recorded by the enquiry officer are perverse?
- (iv) Whether the workman was given adequate opportunity to represent against the punishment sought to be imposed upon him.
- (v) Whether the workman is entitled to any relief? If so, the extent.

6. The workman examined himself by way of affidavit evidence. He was cross examined. The company examined Sh. Mukherjee and filed the copies of entire enquiry proceedings for examination of this tribunal. The parties closed their cases after examination of their respective witness.

7. The first point that has been raised on behalf of the workman that all the charges framed are not in accordance with the clause 14 of the Model Standing Orders. Only three charges could be said to be covered by it. The learned counsel for the company argues that the Model Standing Order is not repository of all the charges that can be framed against a delinquent. It is impossible to categorize the charges.

8. In order to appreciate the controversy between the parties, it is necessary to state the charges. The charge sheet dated 25-11-1988 states them as follows :

- (a) Theft, fraud, embezzlement, misappropriation, dishonesty in connection with the Corpn.'s business or property;
- (b) Making use of one's own position in the Corpn. for personal gains;

- (c) Commission of acts which amount to criminal offence involving moral turpitude and fabrication of Corpn.'s records with malafide interest;
- (d) Habitual breach and violation of rules/procedures laid down in connection with the Corpn.'s business;
- (e) Failure to account for the Corpn.'s money, or concealment and unauthorized possession thereof;
- (f) Acting in a manner prejudicial to the interests of the Corpn.;
- (g) Abetment of acts which amount to misconduct;
- (h) Commissioning of acts subversive of good conduct in the establishment;
- (i) Habitual negligence or neglect of work is not in dispute that each of this charge was supported in the Statement of allegations delineating the circumstances in which these charges were framed. The tribunal does not think it is necessary to reproduce them as it would not serve any useful purpose. It was satisfied itself from the statement of allegations that the workman was sufficiently apprised of the nature of charges which he is likely to face. In fact he has rightly made no grievance on this count. Thus, the fresh issue is if the company could not frame the charges as it did. In the opinion of this tribunal there is no merit in the contention of workman that the enquiry is vitiated because charges are not framed as per clause 14 of the Model Standing Orders. It may be noted that the Model Standing Order do not define the misconduct exhaustively. The schedule I to Industrial Employment (Standing Orders) Central Rules, 1946 is part aforesaid rules framed under Industrial Employment (Standing Orders) Act, 1946. They were made by way example for making certified standing orders. They could not be exhaustive. Section 12 A of the aforesaid Act made them statutory applicable till the certified standing orders. There is nothing in rules as model standing order to show that the charges should be confined to the 'misconduct' mentioned in clause 14. In the opinion of the tribunal the clause 14 is merely illustrative of the misconduct. The Supreme Court in the case of Mehandra Singh Dhantwal vs. Hindustan Motors Ltd. (1976) II LLJ 250 has taken this view. Thus, both the argument stated by the workman are rejected. The charges framed were proper. The issue No. 1 is decided in favour of the employer and against the workman.

9. The issue No. 2 is whether the workman was given adequate opportunity to defend himself. It may be readily

seen that Disciplinary Authority had found the first enquiry conducted by Smt. Chaya A. Sehgal on behalf on the employer before the Enquiry Officer Mr. R. Subramanian was set aside because it was not properly conducted in accordance with the principles of natural justice. A *denovo* enquiry was ordered and consequently, there is no substance in the allegation and the argument that first enquiry was vitiated because the workman was not given proper opportunity. On the other hand the act of setting aside the first enquiry shows anxiety on the part of disciplinary authority that the workman shall be given adequate opportunity. The correction of mistake cannot go in favour of the workman. Therefore, it is not necessary to consider what transpired during the first enquiry. It is incorrect submission on the part of the workman to say that the new enquiry officer Mr. Mukherjee was not authorized to record the evidence again. On the contrary, the fresh recording was done in presence of the defence representative of the workman. He had full opportunity to cross examine these witnesses. It is also clear from the documentary evidence filed by the employer and the evidence led before this tribunal that Sh. Bhagwan Kulkarni was the defence representative of the workman in the second enquiry. He was entitled to cross examine the four witnesses if any witness made a significant deviation from his previous statement made before the first enquiry officer. This tribunal is of the firm view that enquiry which was set aside on the ground of inadequate opportunity could not be continued from the stage of examination in chief recorded by the fresh enquiry officer. The evidence recorded could not be used by the enquiry officer as substantive piece of evidence in the second enquiry. Moreover, statement which was recorded in absence of the representative of the workman by Mr. Subramaniam were liable to be challenged by the workman on the ground that the enquiry was not fully conducted in presence of his defence representative. The workman challenged first enquiry on the ground of inadequate opportunity and when his contention was accepted, he cannot say that the order was malafide. There is another contention raised on behalf of the workman that dishonoured cheques and Register of Dishonoured cheques were not produced by the employer inspite of repeated demands of the Defence representative. The Chief Manger should have summoned for cross examination because he had written two letter date 20-3-1992 and 21-4-1992. This tribunal has considered this plea of the workman made in the Statement of claim and repeated as such in the written arguments. This tribunal is of the view that the workman has not been able to spell out how he was prejudiced by the aforesaid facts. The Enquiry Officer entered the witness box. He had stated that when the Presenting Officer stated that the registers were not available the Defence representative accepted the position and did not press production of the documents. There is no cross examination regarding the two letters. The next argument that defence representative was not permitted

to make final submission is rebutted by the evidence of Mr. Mukherjee. The documents filed by the company on 15-1-2002 corroborated his statement he had sent summing up of the management on 5-8-1992. The workman himself admitted in cross examination that he was defended by Mr. Bhagwan Kulkarni whom he had chosen as his defence representative. The proceedings of the enquiry was signed by the workman. On each occasion when he was present. The defence representative was given full opportunity to cross examine the witnesses examined against the workman. Only one witness examined in his behalf and further opportunity to produce another witness was declined by the defence representative. The workman received copies of the proceedings each day. There is no merit in submission that because the name of the Presenting Officer was not communicated, the enquiry was vitiated. On the other hand, the workman admitted in cross examination that he was given adjournment on request. There was no enmity between him and Mr. B. Mukherjee. He further admitted that he had not made any grievance with the higher authorities regarding the conduct of enquiry by Shri Mukherjee. This tribunal after considering this evidence and the entire enquiry proceedings that the workman was given full opportunity to defend himself. The principles of natural Justice were not violated. Consequently, the enquiry was valid and it cannot be set aside on this ground.

10. This takes us to issue No. 3. The question if the fact recorded by the Enquiry Officer can be said to be perverse. A finding is said to be perverse when no reasonable man after considering the material evidence on record could reach the conclusion as was done by the enquiry. Even if we expand the meaning of word perverse to say that finding based no evidence or on illegal evidence is perverse then also there should be cogent ground for coming to that conclusion. It has to be remembered that this tribunal is not sitting in appeal over the finding of the enquiry officer. With this view in the mind the tribunal has examined the evidence and conclusion of the enquiry officer. This tribunal did not find any iota of perversely in the finding recorded by the tribunal. It is not necessary for this tribunal to repeat what the enquiry officer stated especially when it agrees with most of the conclusion reached by the Enquiry officer. The affidavit of the workman and the written arguments do not give adequate reasons for holding that the findings recorded against the workmen are perverse. Thus, the issue No. 3 is decided against the workman.

11. The Issue No. 4 is that if the workman was given adequate opportunity to show cause against the proposed punishment. It is clear from the record that workman was given show cause notice dated 02-7-1993. This show cause notice was produced by the employer. It refers to the enquiry report dated 07th April 1993. It is detailed show cause notice requiring the workman to show cause why he not be punished with the dismissal (This document along

with other document was filed on 15-11-2002). The employer had submitted the reply to show cause notice at page 257-254 of the paper book submitted 17-2-1999 (Ex. M 26). The reply dated 01-9-1993 is in 16 pages. Thus, the issue No. 4 is decided against the workman by holding that he was given adequate opportunity.

12. In view of the findings recorded above, it is held that workman is not entitled to any relief. This tribunal has considered the adequacy of findings in the enquiry in exercise of power under section 11-A of the Act. This tribunal is further of the view that there is no scope for interference with the punishment of the workman. Looking to charges proved against the workman in domestic enquiry the Disciplinary authority has rightly passed the order of dismissal.

13. This reference is answered by stating that termination of the services with effect from 20-12-1993 of the workman P. D. Dongre was justified as it was consequence of findings of misconduct recorded in a legal domestic enquiry which was held in accordance with law. The workman P. D. Dongre is entitled to no relief. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 67.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. एम. पी. डी. आई. एल. के प्रबंध थंड्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 83/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/249/90-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 67.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 83/91) of the Cent. Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/249/90-IR (C-I)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference Under Sec. 10(1)(d)(2A) of
the Industrial Disputes Act, 1947

Reference No. 83 of 1991

Parties :

Employers in relation to the management of
Central Mine Planning & Design Institute Ltd.

And

Their Workman

Present :

Shri B. Biswas,
Presiding Officer

APPEARANCES :

For the Employer : Shri B. P. Singh,
Personnel Manager.

For the Workman : None.

State : Jharkhand. Industry : Coal.

Dated the 19th November, 2003

AWARD

By Order No. L-20012/249/90-I. R. (Coal-I) dated the 14th March, 2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of Central Mine Planning and Design Institute Ltd. management not regularising of Md. Masmoon Khan as Generator Operator on and from 12-7-1982 and not placing him in appropriate category and not paying proper wages is justified ? If not, to what relief the workman is entitled ?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

It has been submitted by the sponsoring union that CMPDIL have installed a number of Generators of varying capacities located at different locations to meet the requirement during power cuts. These Generators are operated in three shifts and the Operators are interchangeable. The post of Generator Operators are permanent and placed in Category-V as per N.C.W.A. and the duties are same or identical. They submitted that the concerned workman is in continuous employment since 12-7-1982 and he was entrusted with the duties and responsibilities of Generator Operator as any other Operator in Category-V. They submitted further that the concerned workman and also the workmen concerned in Reference No. 50 of 1991 were placed in Category-I as casual workmen w.e.f. 17-12-85 though they performed the duties and responsibilities of Generator Operator since the date of their appointment. They alleged that such action was taken by the management with a view to deprive the concerned workman from their legitimate wages and other rights. They alleged that by order dated 1-4-89 like other workmen the concerned workman was regularised in Category-I General Mazdoor w.e.f. 17-12-85 depriving him from rendering his honest service since 12-7-82 to 16-12-85 arbitrarily forfeiting consequential service benefits, increments, retirement benefits including gratuity and C.M.P.F. etc. They submitted

further that by order dated 18-4-90 the workman concerned was designated to assist the electricians as Electrical Helper in Category-II with immediate effect in spite of rendering his services and responsibilities as Generator Operator in Category-V. They submitted that for Public Interest Writ Petition No. 9677/83 was filed before the Hon'ble Supreme Court by Prof. Nani Gopal Mitra seeking labour law and Fundamental rights of the workmen listed therein in the Counter Affidavit sworn and affirmed on behalf of the CMPDIL, it was alleged that Kailash Prasad Mahato, Dinesh Prasad Singh and Dhaneshwar Mahto listed among others as General Operators cannot be regularised in Category-V as they neither possess the requisite qualification nor the experience. During pendency of the said Writ Petition before the Apex Court the management engineered and caused one particular union to raise an industrial dispute on or about 20-6-86 for placement of D. P. Singh and three others as Generator Operator in Category-V and a purported settlement was signed on 28-6-86 placing the said persons in Category-V designated as Generator Operator-cum-Mechanic with an over-riding condition that the concerned persons will not pursue their cases before the Hon'ble Supreme Court in the Writ Petition and give affidavit denouncing their claims in the said writ petition. They alleged that the workman concerned in this dispute was coerced and pressurised to swear affidavit which he declined and accordingly with a vengeance they continue to deprive him from his regularisation as Generator Operator. It is the contention of the sponsoring union that the management with malafide intention deprived the legitimate claim of the concerned workman to be designated as Generator Operator in Category-V in spite of his rendering continuous service illegally, arbitrarily and violating the principle of natural justice. Accordingly, they raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in the written statement submitted by the sponsoring union on his behalf. The management submitted that initially the concerned workman was employed as a casual mazdoor for doing miscellaneous nature of job and subsequently on completion of 240 days of attendance he was regularised as Cat-I General Mazdoor w.e.f. 17-12-85. They submitted that one of the unions in public interest filed Writ Petition before the Hon'ble Supreme Court being No. 9677 of 1983 and in its rejoinder filed in the year 1986 the said union filed names of 288 workmen under I/V to I/W statements alleging that they worked with the management on different dates with different designations. They submitted that the name of the concerned workman was not included in the said list submitted by the said union as Generator Operator on and from 12-7-1982. They submitted that as the management being a Government Company within the meaning of Section 617 of the Companies Act has to abide by the

various statutes including the Employment Exchange Act prior to making any recruitment giving equal opportunity to all eligible persons instead of resorting to pick and choose method. They disclosed that in the year 1983 when a vacancy of Sub-Station/Generator Attendant arose some candidates were interviewed/examined in a selection proceeding on 22-4-1983, the concerned workman was one of the candidates, but in the said interview he could not come out successfully. They submitted that the management cannot employ persons unfit to do a job in the interest of safety and efficiency in production apart from other considerations. Subsequently in the year 1987 a formal circular was issued inviting applications from departmental candidates for filling up the post of Sub-Station Attendant/ DG Set Operators but the concerned workman, Md. Masmoon Khan did not submit any application for considering his candidature. They further submitted that the concerned workman was given all reasonable opportunities for the purpose of selection to the post of Sub-Station Attendant/ DG Set Operator, but he neither applied for the same nor availed its opportunity. It has been further disclosed by the management that as the CMPDIL is a Government Company they have to follow strictly selection procedure for filling up the post by eligible candidates and it cannot give out-right employment or promotion to the person already employed. They disclosed that the post of Generator Operator is a Technical Post and requires sufficient qualifications to deal with the Generator mechanism and the person to hold the said post must have technical qualification and service record. The concerned workman did not disclose that he had technical qualification for getting himself qualified for the said post. They submitted that in the year 1987 with a view to put an end to all disputes relating to the entries in the service records of the employees a circular was issued and all the employees were given excerpts from their service records and called upon to point out objections, if any, so that the dispute could be resolved. The concerned workman did not raise any objection in spite of receiving the service excerpt wherein it was noted that his date of appointment was 17-12-1985 in the post of Category-I General Mazdoor. They disclosed that as the concerned workman was found assisting electricians the management to do justice to him extended difference of wages of Electrical Helper Category-II w.e.f. 18-4-1990. Accordingly the management submitted that as in no way the claim of the concerned workman could be sustainable the question of his regularisation as Generator Operator in Category-V did not arise and for which he is not entitled to get any relief.

Points to be decided :

4. "Whether the action of Central Mine Planning and Design Institute Ltd. management not regularising of Md. Masmoon Khan as Generator Operator on and from 12-7-1982 and not placing him in appropriate category and not paying proper wages is justified? If not, to what

relief the workman is entitled?"

Finding with reasons :

5. It transpires from the record that the concerned workman in order to substantiate his claim did not consider necessary to adduce any evidence though sufficient opportunities were given to him. On the contrary from the record it transpires that the management examined one witness and he was cross examined in part. It is the specific contention of the sponsoring union that the concerned workman was engaged as Generator Operator w.e.f. 17-7-82 by the management. They alleged that though the service of the concerned workman was deployed by the management as Generator Operator they ignored to pay wages to him in the said category. On the contrary, they used to pay him wages in Category-I as per N.C.W.A. It is further allegation of the sponsoring union that in spite of rendering services as Generator Operator in Category-V the concerned workman was regularised as Casual Workman in Category-I w.e.f. 17-12-85. It has been admitted by the sponsoring union that by order of the management dated 1-4-89 the concerned workman was designated as Electrical Helper category-II and by order dated 8-4-90 the concerned workman was regularised as Electrical Helper Category-II in spite of his rendering service as Generator Operator in Category-V. It is the specific contention of the sponsoring union that the management although deprived the concerned workman from his legitimate claim in relation to his regularisation as Generator Operator in Category-V. On the contrary, the management categorically denying the facts disclosed that the concerned workman was engaged as casual workman and after completion of his 240 days work he was regularised as Casual Workman in Category-I w.e.f. 17-12-85. They further submitted that as the concerned workman was engaged as Electrical helper they paid him difference of wages to him for discharging his said duty and thereafter regularised him in the said capacity i.e. Electrical Helper Category-II w.e.f. 18-4-90. They categorically denied the fact that the concerned workman ever discharged his duties as Generator Operator under the management. They disclosed that in the year 1983 when vacancy of Sub-Station/Generator Attendant arose some candidates including the concerned workman were interviewed on 22-4-83 for selection but the concerned workman did not come out successfully and for which his candidature for the post of Generator Attendant could not be considered. In support of this claim the management submitted the result-sheet of candidates appearing in the said test. It transpires from the result-sheet that the concerned workman secured 45 marks while highest mark was secured by Lalan Prasad Gupta. Accordingly there is reason to believe that as there was only one vacant post the management did not commit any wrong in not selecting the concerned workman on the said post. However, it is clear that the said interview was for filling up the post of Generator Attendant or Generator Operator. From the

submissions of the management it further transpires that in the year 1987 they issued a circular inviting application from departmental candidates for filling up the post of Sub-station/DG Set Operator but the concerned workman did not apply for the said post and accordingly the question of his selection did not arise. To rebut this claim in course of hearing the sponsoring union have failed to produce a single scrap of paper. It is admitted fact that a Writ Petition was filed before the Hon'ble Apex Court being No. 9677/83 in respect of the claim of the workman. Neither of the parties in course of hearing have failed to produce the decision of the Hon'ble Apex Court in that regard and for which it is not possible to consider what direction was given by the Hon'ble Court in disposing of the said Writ Petition. The management submitted that the post of Generator Operator is a technical post and requires sufficient qualifications to deal with the Generator mechanism and the persons to hold the said post must possess technical qualification. They further submitted that as the CMPDIL is a Government Company they are to follow strictly selection procedure for filling up the post by eligible candidates. In view of the submissions made by the management the onus definitely shifts on the sponsoring union to establish that the concerned workman was engaged as Generator Operator by the management w.e.f. 12-7-82. The sponsoring union cannot deny their responsibilities to expose what was the process for selection of the concerned workman as Generator Operator and what requisite qualification he had. I find no hesitation to say that the sponsoring union in course of hearing neither appeared nor produced a scrap of paper to show that with all requisite qualifications and being selected by the management the concerned workman discharging his duties as Generator Operator since 12-7-82. It is the contention of the management that in order to eliminate all disputes they issued service excerpts to all their workman in the year 1987 inviting objection, if any, recorded therein, the said service excerpts was also handed over to the concerned workman wherein his date of appointment was recorded as 17-12-85. His qualification was recorded as matriculation. His designation was also recorded as Casual Mazdoor. It is not the case of the sponsoring union that the concerned workman did not receive the said service excerpt. It is really curious to note that the particulars recorded in the said service excerpt have gone far away from the claim of the sponsoring union. With utter surprise it is noticed that inspite of receiving the said service excerpt the concerned workman did not consider necessary to raise any dispute. There is no dispute to hold that as Generator Operator is a technical post not only sufficient qualification but also requires skill and experience. Accordingly the concerned workman cannot exonerate his responsibility to establish that he had sufficient technical qualification, skill and experience before he was deputed to work as Generator Operator. The sponsoring union as well as the concerned workman got sufficient scope to submit related papers in this regard before this Tribunal in

course of hearing but they have failed to do so. It is seen that the concerned workmen's service was regularised as Electrical Helper Category-II in the year 1990 and in that capacity he is discharging his duties. The post of Electrical Helper Category-II and the post of Generator Operator Category-V are quite different and cannot be equated. Therefore, onus shifts on the concerned workman as well the sponsoring union to establish that the management illegally and arbitrarily designated him as Electrical Helper Category-II without designating him as Generator Operator Category-V. The sponsoring union in support of their claim submitted in details in the written statement filed by them. It may be borne in mind that the facts disclosed in the pleading cannot be considered as substantive piece of evidence until and unless the same is substantiated by cogent oral/documentary evidence.

In view of my discussions above I find no hesitation to say that the concerned workman/sponsoring union have failed to establish the claim in question by adducing cogent oral/documentary evidence. Accordingly just relying on the facts disclosed in the written statement there is no scope to give any relief to the concerned workman in view of his prayer and for which he is not entitled to any relief.

6. In the result, I render the following award :

The action of Central Mine Planning and Design Institute Ltd. management in not regularising the concerned workman, Md. Masmoon Khan as Generator Operator on and from 12-7-1982 and not placing him in appropriate category and not paying proper wages is justified. Consequently the concerned workman is not entitled to any relief.

In the circumstances of the case, there would be no order as to cost.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 68.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 113/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/233/2000-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 68.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 113/2000 of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of

BCCL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/233/2000-IR (C-I)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute Under Sec. 10(1)(d)
of the I. D. Act., 1947.

Reference No. 113 of 2000

PARTIES:

Employers in relation to the management of
M/s. B.C.C.L and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. U. N. Lal,
Advocate.

State : Jharkhand. Industry : Coal.

Dhanbad, dated the 20th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/233/2000(C-I), dated, the 29th September, 2000.

SCHEDULE

Kya Messrs Bharat Coking Coal Limited Ke Pravandhan Dwara Bastacola Khadan Mey Karyarata Jagor Ra-Vidas Evam Suchi Mey Diya Gaya Panch Anya Taliwano Ko Taliwan Key Pad Par Niyamit Na Karna Nyaya Evam Kanun Ki Dristi Sey Uchit Evam Sahi Hai? Yadi Nahi to Karmachari Kis Lav Key Hakdar Hai Tatha Kis Tarikh Sey?"

2. In this case none appeared for the workmen. Mr. U.N. Lal, learned Advocate appearing for the management submitted that all the concerned workmen have already been regularised by order dt. 28/31st January, 2000 and 27-6-2000. In support of that claim he submitted copies of the order. From the orders it transpires that the services of the concerned workmen involved in this reference, have already been regularised. This reference has been initiated with the question if the claim of the concerned workmen is to be regularised or not. When by order of the management the services of the concerned workmen have been regularised I consider that no dispute exists to be answered.

Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the

basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 69.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. ति. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचांत (संदर्भ संख्या 175/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-03 को प्राप्त हुआ था।

[सं. एल-20012/323/2000-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 69.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 175/2000) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, received by the Central Government on 10-12-03.

[No. L-20012/323/2000-IR (C-I)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Biswas,
Presiding officer

In the matter of a an Industrial Dispute Under Sec.
10(1)(d) of the I. D. Act, 1947.

Reference No. 175 of 2000

PARTIES:

Employers in relation to the management of
M/s. B.C.C.L. and their workman.

APPEARANCES:

On behalf of the workman : Mr. B.B. Pandey,
Advocate

On behalf of the employers : Mr. D. K. Verma,
Advocate.

State : Jharkhand. Industry : Coal.

Dhanbad, dated the 20th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of

the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/323/2000(C-I), dated, the 27th November, 2000.

SCHEDULE

"Whether the demand of the union for regularisation of Smt. Kamli Devi as Peon in the Sijua Area Office of M/s. B.C.C.L. from 1-1-91 is proper and justified? If so, to what relief is the concerned workman entitled?"

2. In course of hearing Mr. B.B. Pandey, learned Advocate for the workman submitted his prayer to pass a 'No dispute' Award in this reference case as the concerned workman is not interested to proceed with the same. Learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of 'No dispute' Award. Heard both sides. Since the concerned workman involved in the dispute is not interested to proceed with the case, there is no reason to drag on the same.

Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 70.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इसको के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 122/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-03 को प्राप्त हुआ था।

[सं. एल-20012/358/94-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 70.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/1995) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IISCO and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/358/94-IR (C-I)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute Under Sec. 10(1)(d)
of the I. D. Act, 1947.

Reference No. 122 of 1995

PARTIES :

Employers in relation to the management of
M/s. Indian Iron and Steel Co. Ltd. and their workman.

APPEARANCES :

On behalf of the workman : Mr. K. Chakravorty,
Advocate

On behalf of the employers : Mr. D. K. Verma,
Advocate.

State : Jharkhand. Industry : Coal.
Dhanbad, dated the 19th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/358/94-IR. (Coal-I), dated, the 5th September, 1995.

SCHEDULE

"Whether the action of the management of Jitpur Colliery of IISCO Ltd. in dismissing Shri Dhiran Sarkar, Ex-General Mazdoor (I.R. worker) from the service of the company w.e.f. 10-8-89 is justified? If not, to what relief the workman is entitled?"

2. The case of the concerned workman according to Written Statement submitted by him in brief is as follows :—

The concerned workman submitted that he got his employment on compassionate ground due to death of his father as piece rated worker and posted at Jitpur Colliery w.e.f. 1-7-80. He submitted that he was absent from duty with effect from 2-1-89 as he fell ill owing to cytica and could not join to his duty inspite of his sincere desire. On recovery from his illness he came to the place of duty with medical certificate on 2-3-89 and he was allowed to resume his duty from 6-9-89. He alleged that management without giving any scope to defend himself dismissed him from service with effect from 10-8-89 vide letter No. NJ/Term-Ser/89/268 dt. 10-6-89 without any chargesheet on conducting any domestic enquiry against him. After his dismissal he submitted representation on severral occasions with prayer for his reinstatement but to no effect. He alleged that his such order of dismissal was not only illegal and arbitrary but also it violated the principle of natural justice. Accordingly he raised an industrial dispute which ultimately resulted reference to this Tribunal for adjudication.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the allegation and

claims of the concerned workman which he asserted in his written statement. They submitted that the concerned workman got his appointment vide letter dt. 20/25-6-80 as piece rated group of worker at Jitpur colliery in the capacity of dependent son of late N. C. Sarkar on compassionate ground. He joined his duty on 16-8-80 and remained on the roll of the company till he was dismissed from his service by letter dt. 16-6-87 issued by the management. Management alleged that the concerned workman was in the habit of remaining himself absent from duty very frequently without prior permission of the authority. They alleged that during the years 1986, 1987 and 1988 the concerned workman put his attendance for 87 days, 53 days and 89 days respectively. In the year 1989 he put his attendance only for 16 days. They alleged that in the years, 1986 and 1987 the concerned workman was issued with the chargesheet for committing misconduct on the ground of absenteeism. For chargesheet issued in the year 1986 he was released on giving due warning to him while for chargesheet during the year 1987 he was placed under suspension for 10 days. They submitted that inspite of giving warning and issuance of suspension order the concerned workman did not mend his habit to remain himself absent from duty unauthorisedly. In the year 1988 again chargesheet was issued to the concerned workman for committing misconduct on the ground of absenteeism and on departmental enquiry as he found guilty he was again suspended for 10 days by letter dt. 1-10-88 and warning was given to him to dismiss him from service if he commits such misconduct further. They alleged that inspite of the order of suspension and also issuance of warning letter the concerned workman did not mend himself and started absenting himself from duty with effect from 2-1-89 unauthorisedly and for which again chargesheet was issued to him on 3-2-89 for committing/misconduct under clause 27(4) & 27(16) of the certified Standing order of the company on the ground of absenteeism. They submitted that as the concerned workman was not found in the colliery premises the said chargesheet was sent to this home address by Regd. Post which however, was returned back being undelivered as he could not be traced out there. However, on 3-3-89 the concerned workman when came to his place of work the said chargesheet was served to him. Inspite of receiving the said chargesheet concerned workman did not give his reply within 48 hours as per direction. On the contrary he went back to his house and procured a medical certificate dt. 2-3-87 and sent the same to the management along with his reply to the chargesheet in support of his defence that on the ground of his sickness he could not attend to his duty. As the reply given by the concerned workman was not satisfactory management decided to hold domestic enquiry against him and appointed Mr. R. Mohan Manager (PL) as Enquiry officer by letter dt. 13-3-89. Mr. P. C. Tiwari Assistant Manager (P) was also appointed as presenting officer. They submitted that during enquiry proceeding the concerned workman remained present and fully

participated the same. During enquiry proceeding the concerned workman did not raise any dispute against the enquiry officer or the Presenting Officer in the matter of conducting the enquiry proceeding. On the contrary the enquiry officer conducted the enquiry proceeding fairly, properly and in accordance with the principle of natural justice and after completing the said proceeding submitted his report holding the concerned workman guilty to the charges. On the basis of the report submitted by the Enquiry Officer and also considering all other aspects the disciplinary authority dismissed the concerned workman from the service by letter dt. 10-4-89. They submitted that the past conduct of the concerned workman was highly unsatisfactory and he had been issued several warning letters and chargesheets for commission of misconduct. As the concerned workman did not consider necessary to mend himself there was no alternative but to impose the penalty of dismissal. They submitted that considering the unsatisfactory service and the nature of misconduct committed by him the dismissal of the concerned workman from his service was legal bonafide and justified and for which he is not entitled to get any relief.

4. POINTS TO BE DECIDED

“Whether the action of the management of Jitpur Colloery of IISCO, Ltd. in dismissing Shri DhiranSarkar, Ex-General Mazdoor (I.R. Worker) from the service of the company w.e.f. 10-8-89 is justified? If not, to what relief the workman is entitled?”

5. FINDING WITH REASONS

It is considered from the record that neither the concerned workman nor the management adduced any evidence either oral or documentary in order to substantiate their claim and counter claim. Considering the record I find no dispute to hold that the concerned workman got his appointment at Jitpur colliery under the management on compassionate ground as piece rated worker Group-I with effect from 10-6-89. It is the specific allegation of the management that the concerned workman was in the habit of remaining himself absent from duty without prior permission of the authority. They alleged that during the years 1986, 1987, 1988 and 1989 the concerned workman attended to his duty for 87 days, 53 days, 89 days and 16 days respectively. For such unauthorised absence the concerned workman was issued with the chargesheet not only but also he was warned and suspended on different occasions. They alleged that instead of mending himself the concerned workman again went on unauthorised leave for more than 10 days with effect from 2-1-89 and for which a chargesheet was issued against him on 3-2-89 for committing misconduct under clause 27(4) & 27(16) of the Certified Standing order of the company on the ground of absenteeism. As the concerned workman was not available at colliery premises that said chargesheet was sent to his home address by registered post but the same too was

returned back without service. They submitted that thereafter, on 3-3-89 the concerned workman when came to the place of his duty the said chargesheet was handed over to him with direction to give its reply within 48 hours. It is the contention of the management that instead of giving his reply within that period he left for home and procured a medical certificate and then sent his reply by post annexing that medical certificate. As the reply given by the concerned workman was not satisfactory the disciplinary authority decided to hold domestic enquiry against him and accordingly appointed Mr. R. Mohan, Manager (PL) as Enquiry Officer and P.C. Tiwari, Asstt. Manager as presenting officer. They disclosed that the concerned workman fully participated the enquiry proceeding and full opportunity was given to him to defend his case. He also did not raise objection either against the Enquiry officer or against the Presenting Officer about their credibility to conduct the said enquiry proceeding. The said enquiry officer after completing the enquiry proceeding submitted his report finding the concerned workman guilty to the charges and thereafter he was dismissed from his service by order date 10-4-89.

6. It is the contention of the Management that the Enquiry officer conducted the enquiry proceeding fairly, properly and in accordance with the principles of natural justice. Their second contention is that the chargesheet which was brought against him was established.

7. Accordingly onus rested on the management to establish that domestic enquiry conducted by the enquiry officer against the concerned workman was fair, proper and in accordance with the principles of natural justice. Before taking up hearing on merit opportunity was given to the management in course of preliminary hearing to establish that the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice. It is shocking to note that inspite of giving ample opportunity management failed to produce the papers relating to enquiry proceeding and for which they could not examine the enquiry officer. In the circumstances the management failed to establish that domestic enquiry conducted against the concerned workman by the enquiry officer was fair, proper and in accordance with the principle of natural justice.

8. It is the specific allegation of the management that the concerned workman was in the habit of remaining himself absent from duty without prior permission of the authority. They in their pleading have given detail description in this regard and which step they took against him. The instant proceeding was initiated by the management when the concerned workman against started himself absenting from duty w.e.f. 2-1-89. As the concerned workman remained himself absent unauthorisedly for more than 10 days they issued a chargesheet date 3-2-89 against him for committing misconduct under clauses 27(4) and 27(14) of the certified Standing Order applicable to the

workman of the company.

I have already discussed above that inspite of getting ample opportunities the management in course of preliminary hearing have failed to establish that the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principles of natural justice. In view of the facts and circumstances opportunity was given the management to establish the charge brought against the concerned workman at the time of hearing the case on merit. It is curious to note that the management have failed to produce any relevant paper to establish the charge brought against the concerned workman. Management have brought the charge of committing misconduct against the concerned workman under clause 27(4) and 27(16) of the Certified Standing orders. Therefore, onus rests on the management to establish the charge in question particularly when they have brought serious allegation against him. I find no hesitation to say that the management inspite of getting sufficient opportunities have failed to establish the charge in question against the concerned workman. They have neither been able to establish the fairness and propriety of the enquiry proceeding held by the Enquiry Officer nor been able to establish the charge brought against him. In the circumstances, there is no scope to judge how far the management was fair. In dismissing the concerned workman from his service.

8. In view of the facts and circumstances discussed above I hold that as the management have failed to substantiate the charge brought against the concerned workman the same is vitiated and for which order of dismissal passed against him is set aside. The concerned workman accordingly entitled to get his reinstatement in service.

In the result, the following Award is rendered :—

“The action of the management of Jitpur Colliery IIISCO. Ltd. in dismissing Shri Dhiran Sarkar, Ex-General Mazdoor (I.R. worker) from the service of the company w.e.f. 10-8-89 is not justified. Consequently, the concerned workman is entitled to get reinstatement on his original post with continuity of service and 25% back wages from the date of reference to his reinstatement.”

Management is directed to implement the Award within three months from the date of its publication in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 71.—औषधिक विवाद अधिनियम, 1947 (1947 का 14) की आरा 17 के अनुसरण में, केन्द्रीय सरकार आ. को. को. लि. के प्रबंधतात्र के संसद नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औषधिक विवाद में केन्द्रीय सरकार औषधिक

अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 29/96) को प्रकाशित करती है, जो केन्द्रीय सरकार ने 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/126/95-आई आर (सी-1)]

एस० एस० गुप्ता, अधर सचिव

New Delhi, the 11th December, 2003

S.O. 71.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/96) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/126/95-IR (C-I)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute Under Sec. 10(1)(d)
of the I. D. Act., 1947.

Reference No. 29 of 1996

PARTIES:

Employers in relation to the management of
Block II Area of M/s. B.C.C.L and their workman.

APPEARANCE:

On behalf of the workman : None

On behalf of the employers : Mr. H. Nath,
Advocate.

State : Jharkhand. : Industry : Coal.

Dhanbad, dated the 19th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/126/95-IR(Coal-I), dated, the 26th March, 1996.

SCHEDULE

“Whether the demand of the union for referring Shri Ram Nandan Singh, Pump Operator of Nudkhurkee Colliery of M/s. B.C.C.L. to the Apex Medical Board for assessment of his age is justified? If so, to what relief is the concerned workman entitled?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring Union on his behalf in brief is as follows. It has been submitted by the sponsoring Union that the date of birth of the concerned

workman figuring in the present reference case who is younger brother of Ram Janam Singh is 12-4-35 as per carbon copy of service excerpt supplied to him by the management. They submitted that though the concerned workman was younger to Ram Janam Singh has date of birth in the management's record was shown earlier than that of the date of birth of the elder brother and accordingly he submitted representation to the management for assessment of his age through Apex Medical Board but management did not pay any heed to his appeal and for which he raised an Industrial Dispute before the ALC(C) Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that date of birth of the concerned workman was recorded as 12-4-35 in the Form B Register maintained under Section 48 of the Mines Act 52 and the concerned workman was superannuated from his service with effect from 12-4-95 on the basis of recorded date of birth in the statutory document. They submitted that in the service excerpt which was issued to him in 1987 date of birth also was recorded as 12-4-35 but inspite of knowing fully well of this fact he did not submit any petition for correction of his said date of birth. They alleged that after his superannuation he raised the present dispute raising that his date of birth recorded in the Form B Register was not correct and for which the same is required to be assessed by the Apex Medical Board. They disclosed that no dispute can be raised for correction of the date of birth by sending a workman to Medical Board either after his retirement or at the fag end of his retirement. They submitted that the claim of the concerned workman finds no basis relating to his recording date of birth as 12-4-35 while his date of his elder brother Ram Janam Singh was recorded as 1-6-35 in the register of the management as because of the fact that he has failed to produce any document to show that Ram Janam Singh was his elder brother. Moreover they disclosed that the concerned workman in the service excerpt instead of disclosing the name of Ram Janam Singh as his elder brother disclosed the name of Buccha Singh as his brother. Accordingly in absence of any cogent document it was not possible on their part to accept such of his contention for assessment of his age through Apex Medical Board. In view of the facts and circumstances management submitted that they did not commit any illegal act or took any arbitrary decision in superannuating the concerned workman from his service and for which he is not entitled to get any relief according to his prayer.

POINTS TO BE DECIDED

4. It transpires from the record that inspite of getting sufficient opportunity the concerned workman did not consider necessary to adduce any evidence oral or

documentary in order to substantiate his claim. Management on the contrary examined one witness as MW-1 in support of their claim.

Considering the facts disclosed in the pleadings of both sides and also considering the evidence of MW-1 I find no dispute to hold that the concerned workman was an employee under the management. It is the contention of the management that the time of entry in the service date of birth of the concerned workman in the Form B Register was recorded as 12-4-35 and accepting the same he put his LTI in Col. No. 12 of the said register which was also duly endorsed by the official of the management. During evidence of MW-1 Form B Register was marked as Ext.M-1. Considering the Form B Register I find corroboration of the facts in question. It is the further contention of the management that in the year 1987 service excerpt was also issued to the concerned workman with a view to invite correction of any entry recorded therein. In the said service excerpt his date of birth was recorded as 12-4-35. The service excerpt also exposed the name of his near relatives including the name of his brother Bucha Singh. They submitted that even after receipt of the said service excerpt the concerned workman did not raise any dispute relating to his date of birth record therein. The service excerpt during evidence of MW-1 was marked therein. The service excerpt during evidence of MW-1 was marked as Ext.M-2 which has corroborated the claim of the management. Therefore, considering the Form B Register as well as the service excerpt it is clear that date of birth of the concerned workman was recorded as 12-4-35.

5. It is seen that the concerned workman raised the present industrial dispute after superannuation from his service disclosing the fact that inspite of his giving representation management refused to said him to Apex Medical Board for assessment of his age. He disclosed that his elder brother Ram Janam Singh was also an employee of the management and his date of birth in the management's record was recorded as 1-6-36. Disclosing this fact he submitted that he being the younger brother of Ram Janam Singh, his date of birth cannot be 12-4-35. There is no dispute to hold that date of birth of the younger brother cannot be earlier to the date of birth of the elder brother. It is the contention of management that the concerned workman inspite of giving representation has failed to produce a single scrap of paper to show that Ram Janam Singh was his elder brother. On the contrary relying on the service excerpt Ext. M-2 management submitted that the concerned workman disclosed the name of his brother as Bucha Singh and Ram Janam Singh. Therefore, onus rests absolutely on the concerned workman to establish that Ram Janam Singh was his elder brother and his date of birth was 1-6-36. Considering the record I find no dispute to hold that management issued service excerpt to the concerned workman in the year 1987 wherein his date of birth was recorded as 12-4-35. No evidence on the part of

the concerned workman what step he took after receipt of the service excerpt in the matter of correction of his date of birth recorded in the Form B Register. It is seen that after superannuation the concerned workman has raised the Industrial dispute for assessment of his age through Apex Medical Board. No explanation is forthcoming why the concerned workman was prevented from raising such dispute after the service excerpt was received by him.

6. There is no dispute to hold that Form B Register is considered as Statutory Register under Section 48 of the Mines Act therefore all entries therein are binding to the parties in relation to its correction until and unless any gross discrepancy is detected. JBCCI Circular No. 76 has pointed clearly how age of the workman will be assessed for its entry in the statutory register. It is seen that date of birth of the concerned workman was recorded in the Statutory Form B Register as 12-4-35 at the time of his entry in the service and he accepting its correctness put his LTI in the same which was duly endorsed by the official of the management. Therefore, there is sufficient reason to believe that date of birth of the concerned workman was recorded according to particulars given by him. From the date of entry in the service till the date of his superannuation he did not raise any dispute about his date of birth recorded in the statutory register. After his superannuation it is seen that taking the plea of the date of birth of his elder brother he has raised the instant dispute for assessment of his age through Apex Medical Board as the management refused to accept his representation. It is seen that inspite of raising the instant dispute and also getting ample scope the concerned workman did not come forward before this Tribunal to establish his claim. Facts disclosed in the pleading cannot in any circumstances be considered as substantive piece of evidence until and unless the same is substantiated by cogent documentary or oral evidence. It is seen that the concerned workman just raising the instant dispute has finished his duty. He did not consider necessary to adduce any cogent evidence to substantiate his claim. It is not expected that he is entitled to get his relief just relying on the facts disclosed in his Written statement without any supporting evidence. Accordingly, after careful consideration of all the facts and circumstances carefully, I hold that the concerned workman has lamentably failed to established his claim and for which he is not entitled to get any relief.

In the result, the following Award is rendered :—

“The demand of the Union for referring Shri Nanadan Singh, Pump Operator of Nudkhurkee colliery of M/s. BCCL to the Apex Medical Board for assessment of his age is not justified. Consequently, the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 72.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतकोलिंग के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 137/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/52/2001-आई.आर.(सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 72.—In pursuance of Section 17 of the Industrial Dispute, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 137/2001) of the Central Govt. Industrial Tribunal-Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/52/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

Reference No. 137 of 2001

PARTIES: Employers in relation to the management of M/s. B.C.C.L and their workman.

APPEARANCES:

On behalf of the workman : Mr. S.N. Goswami,
Advocate.

On behalf of the employers: Mr. H. Nath,
Advocate.

State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 20th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this

Tribunal for adjudication vide their Order No. L-20012/52/2001-C-I dated, the 30th April, 2001.

SCHEDULE

“Whether the action of the management of BCCL Kustore Area in superannuating Shri Nityanand Mukherjee from service w.e.f. 22-7-2000 is just, fair, and legal? If not, to what relief is the workman concerned entitled?”

2. The case of the concerned workman according to the Written statement submitted by him in brief is as follow:—

The concerned workman submitted that he initially on 14-8-64 he got his appointment at East Bhugatdih colliery as Cap Lamp incharge and at that time his date of birth as per school leaving certificate was recorded in the Form B register as 22-6-1944. He submitted that the said school leaving certificate was issued on 29-8-59, i.e. long before getting his appointment at East Bhugatdih colliery. He submitted that not only in the Form B Register but also in the I.D. card register and in C.M. P.F. record the same date of birth i.e. 22-6-44 was recorded. He disclosed that on 17-10-1971 when coking coal mines including East Bhugatdih colliery were nationalised and taken over by the central Govt. all documents viz. Form B Register, I.D. card register etc. were taken over by the custodian, authorised by the Central Govt. Thereafter, on the basis of those documents new management prepared Form B Register, I.D. card register etc. wherein his date of birth was recorded as 1-7-44. He submitted that the present management though issued I.D. card to him no date of birth was recorded therein. However, in the year 1987 management issued service expert to him wherein his date of birth was recorded as 1-7-44. He alleged that knowing fully well of his date of birth as 1-7-49 management illegally, arbitrarily and violating the principle of natural justice superannuated him from his service with effect from 22-7-2000 prematurely without any basis or without issuing any notice. He alleged that management also did not consider necessary to follow instruction of JBCCI Circular, No. 76 in the matter of assessment of his age before superannuating him from service. Accordingly, he raised an industrial dispute before the ALC(C) for conciliation which ultimately resulted reference to this Tribunal for adjudication.

He accordingly, submitted his prayer to pass award directing the management to reinstate him in service with full back wages and other consequential relief.

2. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his written statement. They submitted that the concerned workman was employed at East Bhugatdih colliery, as Cap Lamp incharge on 14-8-64 and as per his declaration his

age was recorded as 26 years in the original Form B Register. They submitted that the concerned workman authenticated the said fact in the Form B Register by putting his signature in relevant column. They submitted that keeping in view his age 26 years as on 14-8-64 his date of birth came to 14-8-38. They accordingly submitted that as the entries in the Form B Register, are to be considered as authenticated document, relying on the same the concerned workman superannuated from service after attaining the age of 60 years vide letter No. 1068 dt. 22-7-2000 with immediate effect. They submitted that there is no provision to accept the date of birth of an employee on the basis of School Leaving Certificate. They admitted that in the service excerpt, Identity Card and N.E.S. records, the date of birth of the concerned workman was written by mistake or otherwise as the same are not variance from the entries duly authenticated by the concerned workman in the Form B Register. Accordingly, they submitted that the management neither took any arbitrary decision nor violated the principle of natural justice in superannuating the concerned workman from service relying on the age recorded in the Form B Register. Accordingly, management submitted their prayer to pass award rejecting the claim of the concerned workman.

3. The points to be decided in this reference are :—

"Whether the action of the management of BCCL Kustor Area in superannuating Shri Nityanand Mukherjee from service w.e.f. 22-7-2000 is just, fair, and legal? If not, to what relief is the workman concerned entitled?"

FINDINGS WITH REASONS

4. It transpires from the record that the concerned workman in order to substantiate his claim examined himself as witness in this case. Management also examined one witness as MW-1 in support of their claim.

During evidence, of WW-1 corroborated the facts which he disclosed in his written statement. Considering the evidence of both sides it transpires that the concerned workman got his initial appointment at East Bhugatdih Colliery on 14-8-64. He submitted that at the time of his appointment his date of birth in the Form B Register was recorded as 22-6-44 as per date of birth recorded in the School Leaving Certificate issued by the School Authority on 29-8-59. He further disclosed that the same date of birth also was recorded in the CMPF record as well as in I.D. Card register. It is his further contention that after nationalisation of the said colliery the new management took over charge of the old Form B Register, I.D. Registers and other relevant papers and opened new Form B Register wherein his date of birth was recorded as 1-7-44. He further disclosed that in the year 1987 management issued service excerpts to him wherein his date of birth was recorded as 1-7-44. He submitted that as his date of birth was recorded correctly in the service excerpt he did not raise any dispute over his age. It is his allegation that management

superannuated him from his service with effect from 22-7-2000 prematurely and without allowing him to render his service upto 60 years of his age which he was legally entitled to do. During evidence of the concerned workman copy of the service excerpt was marked as Ext. W-1 which shows that his date of birth was recorded as 1-7-44 though according to School Leaving Certificate his date of birth would be 22-6-44. It is seen that even after receiving his service excerpt the concerned workman did not raise objection why his date of birth was recorded as 1-7-44 instead of 22-6-44 as per School Leaving Certificate. On the contrary relying on his date of birth as 1-7-44 he submitted that his actual date of superannuation from service on attaining age of sixty years would be 1-7-2004 but the management illegally and arbitrarily superannuated him with effect from 22-7-2000 prematurely. On the contrary from the submission of the management I find quite a different pictures. Admitting the fact of concerned workman's appointment at East Bhugatdih Colliery in the year 1964 management submitted that age of the concerned workman was recorded as 26 years in the Form B Register at the time of his entry in the service as per particulars given by him. They submitted further that authenticity of the particulars including age recorded in the Form B register was duly endorsed by him and he put his signature in the respective column of the said register. Disclosing this fact management submitted that as Form B Register is considered as statutory register as per Mines Act the particulars entered therein with the knowledge of the workmen are binding on them if otherwise any gross discrepancy is not detected. During evidence of MW-1 the old Form B Register of the erstwhile owner was marked as Ext. M-1. On careful consideration of the said register it transpires that the age of the concerned workman was recorded as 26 years as on 14-8-64 i.e. on the date of his entry in the service. It further transpires that the concerned workman put his signature in column No. 9 of the Form B Register accepting his particulars including age recorded in Sl. No. 950 of the said Form B Register. The signature of the concerned workman in the Form B Register at Column No. 9 was marked as Ext. M-1/1 by MW-1. During his evidence, the concerned workman did not deny the signature as of his own which is appearing in column No. 9 of the Form B Register. Therefore, it is clear that he was fully aware which age was recorded in the Form B Register at the time of his entry in the service.

5. Accordingly onus shifts on the concerned workman to establish that at the time of his entry in the service his date of birth was recorded as 22-6-44 by the management as per School Leaving Certificate issued by the School Authority on 29-8-59. During hearing the concerned workman got ample scope to produce the said certificate but has failed to produce the same without giving any explanation. As such there was no scope to verify the credibility of his submission relating to his date of birth as 22-6-44. He submitted that the erstwhile owner issued I.D.

Card to him wherein the same date of birth was recorded but too the concerned workman failed to produce at the time of hearing to establish his claim. He disclosed in the CMPF record also his date of birth was recorded as 22-6-44. The concerned workman had the scope to call for the said record to substantiate his claim but he did not consider necessary to do so. Therefore, it is seen that workman has failed to produce any document to show that his date of birth was 22-6-44. He relied on the copy of the service excerpt (Ext. W-1) which shows recording of his date of birth as 1-7-44 and not 22-6-44. Therefore, according to his submission in the copy of the service excerpt his correct date of birth also was not recorded but inspite of getting knowledge of the said fact he did not raise any objection. It is seen that age of the concerned workman was 26 years as on 14-8-64 was not recorded by the new management but it was recorded by the erstwhile owner in the Form B register with full knowledge of the concerned workman. Therefore, until and unless any contrary is proved the age which was recorded in the Form B Register which is to be considered as statutory register as per Mines Act is binding upon him. It is seen that as per age recorded in the Form B Register due date of superannuation of the concerned workman was 14-8-98. On attaining his age of 60 years but it is seen that he got his superannuation on 22-7-2000 i.e. attaining his age of 62 years. It has been admitted by the management that due to mistake the concerned workman over stayed in the service. In course of hearing learned Advocate for the concerned workman referred to decisions reported in 2002(3) JLJR 491 and the Indian Law reports Vol. LXXXIX (2) 30. In the decision reported in 2002(3) JLJR 491 His Lordship observed :

"Date of birth—an entry made in the service book cannot ordinarily be altered unless there are unimpeachable documents but at the same time the employer also does not have an unilateral power to suddenly refuse to honour a valid entry in the service—instantly petitioner's service book found to be neat and clean—petitioner having entered in the service thirty five years ago it was not proper for the respondents to send the petitioner to Medical Board to reascertain his age on the basis of determination made by the Medical Board—petitioner entitled to continue in service strictly on the basis of his date of birth recorded in the service book."

and in the decision reported in the Indian Law reports His Lordship observed :—

"Where from perusal of Form B register it appears that against the name of the petitioner the age has been recorded 35 years as on 13-1-1972 i.e. date of commencement of employment. Exact date of

birth was not recorded in the said register nor there was any basis for recording age of the petitioner as 35 years. In the service book the date of birth of the petitioner was originally recorded as 3-1-1946. Subsequently, the said date of birth was struck off and in that place 35 years as on 13-1-1972 was entered. Admittedly this alteration and interpolation in the Service-book was made at the instance of the respondent behind the back of the petitioner. After the appointment of the petitioner, respondent issued identity card and the Mining Sardar certificate in which date of birth of the petitioner was shown as 1946. But for the first time without any basis and ignoring their own document and also school leaving certificate the date of birth of the petitioner was altered behind his back and without notice to him."

I have carefully considered both the decisions and I find that the case of the concerned workman does not come within the purview of the observation made by the Hon'ble Court. Here in the instant case initial onus was on the concerned workman that management arbitrarily superannuated him from his service prematurely ignoring his date of birth recorded in the Form B Register by the erstwhile owner. In this regard I have made a details discussion above and I find no hesitation to say that his submission in this regards appears to be baseless. It has been established that the concerned workman worked under the management for two years more beyond the exact age of superannuation due to absolute fault of the management. Accordingly, in view of the facts and circumstances discussed above I hold that management did not commit any mischief in superannuating the concerned workman with effect from 22-7-2000 and for which he is not entitled to get any benefit according to his prayer.

In the result, the following award is rendered :—

"The action of the management of BCCL, Kustore Area in superannuating Shri Nityanand Mukherjee from service w.e.f. 22-7-2000 is just, fair and legal. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

का. आ. 73.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण 2, धनबाद के पंचाट (संदर्भ संख्या 142/2001)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/112/2001-आई.आर. (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 73.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 142/2001) of the Cent. Govt. Indus. Tribunal/Labour-Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-12-2003.

[No. L-20012/112/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 142 OF 2001

PARTIES:

Employers in relation to the management of M/s. B.C.C.L and their workman.

APPEARANCES:

On behalf of the workman : Mr. B.N. Singh,
Advocate

On behalf of the employers: Mr. D.K. Verma,
Advocate

State : Jharkhand : Industry : Coal

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/112/2001-C-I dated, the 30th April, 2001.

SCHEDULE

“Whether the demand of the Union that the Special Piece rate allowance (SPRA) may be taken into account while fixing the pay of Sh. Bhola Beldar,

Sh. Dhaneshwar Beldar, Shri Ram Prit Beldar, Shri Gora Beldar and Shikirtan Polai at the time of their regularisation w.e.f. 29-11-1991 is just and proper ? If so to what relief are the said workmen entitled ?”

2. In course of hearing Mr. B.N. Singh representative of the concerned workmen submitted his prayer that the concerned workman involved in the reference are not willing to proceed with the hearing of this case, and accordingly a ‘No dispute’ Award may be passed. Mr. D.K. Verma, learned Advocate for the management raised no objection in view of the submission made by the representative of the workmen. Heard both sides. Since the concerned workmen involved in the dispute are not interested to proceed with the hearing of the reference, there is no reason to drag on the same. Under such circumstances, a ‘No dispute’ Award is rendered and the instant reference is disposed of on the basis of ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

K.A. 74.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेट एअर प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 94/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल.-11012/70/2001-आई.आर. (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 74.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2001) of the Cent. Govt. Indus. Tribunal/Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jet Air P. Ltd. and their workman, which was received by the Central Government on 10-12-2003.

[No. L-11012/70/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT : NEW DELHI

Presiding Officer,
SHRI BADRI NIWAS PANDEY

I.D. No. 94/2001

Shri Amar Nath Khudaniya,
S/o Shri Ramanand Khudaniya,
R/o A-212, Hari Nagar Clock Tower,
New Delhi through Jet Air Employees Union,
(North India) through its President
Mr. Josephlukka ... Workman/Petitioner

Versus

M/s. Jet Air Private Limited,
Jet Air House,
13, Community Centre,
Yusuf Sarai,
New Delhi-110049,
Through its Chairman/
Vice-President. ... Management/Respondent

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/70/2001-IR (C-1) dated 13-12-2001 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the Vice President (North India) Jet Air Private Limited, Jet Air House, 13, Community Centre, Yusuf Sarai, New Delhi-110049 in dismissing Shri Amar Nath Khudaniya Staff No. 2783 Ex.Accounts Asstt. is justified, proper and valid ? If not, to what relief is the workman entitled ?”

2. Both the parties moved a joint application before me today that they have come to terms through an amicable settlement outside the Court. Hence the workman has prayed that no dispute award may be passed accordingly.

3. The application has been accepted and accordingly. No Dispute Award is hereby given in terms of the joint application moved by the parties today i.e. dated 3-12-2003 which shall form part of the Award.

Dated : 3-12-2003

B. N. PANDEY, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2003

कानू. आ० 75.—ऑपरेटिंग विवाद अधिनियम, 1947 (1947 का 14) की आरा 17 के अनुसरण में, केन्द्रीय सरकार जेट एअर प्रा. लि. के प्रबंधनसंघ के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑपरेटिंग विवाद में केन्द्रीय सरकार औपरेटिंग अधिकारज, नई दिल्ली के पंचाट (संदर्भ संख्या 96/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-2003 को प्राप्त हुआ था।

[सं. एल.-11012/72/2001-आई.आर. (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 11th December, 2003

S.O. 75.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/2001) of the Cent. Govt. Indus. Tribunal/Labour-Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jet Air P. Ltd. and their workman, which was received by the Central Government on 10-12-2003.

[No. L-11012/72/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT : NEW DELHI

Presiding Officer, SHRI BADRI NIWAS PANDEY

I.D. No. 96/2001

Shri Kapil Sharma,
S/o Shri Satyendra Dutt Sharma,
60/15, Sector-3,
Gole Market,
New Delhi.
Through Jet Air Employees Union
(North India) through it's
President Mr. Josephlukka ... Workman/Petitioner

Versus

M/s Jet Air Private Limited,
Jet Air House, 13, Community Centre,
Yusuf Sarai, New Delhi-110049,
Through its Chairman/
Vice-President. ... Management/Respondent

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/72/2001-I.R. (C-1) dated 13-12-2001 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the Vice President (North India) Jet AirPrivate Limited, in dismissing Shri Kapil Sharma Ex-system Analyst from service is justified, proper and valid? If not, to what relief is the workman concerned entitled?”

2. Both the parties moved a joint application before me today that they have come to terms through an amicable settlement outside the Court. Hence the workman has prayed that no dispute award may be passed accordingly.

3. The application has been accepted and accordingly. No Dispute Award is hereby given in terms of the joint application moved by the parties today i.e. dated 3-12-2003 which shall form part of the Award.

Dated : 3-12-2003

B. N. PANDEY, Presiding Officer

384765/03 — 8

नई दिल्ली, 12 दिसम्बर, 2003

का. आ. 76.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बॉमर लारी एंड कं. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 67/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[डायरी सं. 196/दि. 12-12-03]

बी० एम० डेविड, अवर सचिव

New Delhi, the 12th December, 2003.

S.O. 76.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour-Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Balmer Lawrie & Co. Ltd. and their workman, which was received by the Central Government on 12-12-2003.

[Dy. No. 196, dt. 12-12-03]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT:
AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B. SC., LL. B., Presiding Officer

Dated the 13th day of October, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 67/2001

BETWEEN:

Smt. Ciba Sukumaran,
W/o K. Nandan,
LIGB-135, Dr. A.S. Rao Nagar,
Hyderabad.

....Petitioner

AND

1. The General Manager,
M/s. Balmer Lawrie & Co. Ltd.,
(A Government of India Enterprise)
Travel Tours and Cargo Division,
Core-8, 4th floor, SCOPE Complex,
7, Lodhi Road, New Delhi.
2. The Branch Manager,
M/s. Balmer Lawrie & Co. Ltd.
Room No. 302, Regency House,
Somajiguda, Hyderabad.

.... Respondents

APPEARANCES:

For the Petitioner : M/S. P.B. Vijay Kumar & K.S. Naidu,
Advocates

For the Respondent : M/s. B. Vijayasen Reddy &
G. Satish Reddy, Advocates

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Petitioner worked under the 2nd Respondent as counter staff treating as contract labour, for the period from 12-11-96 to 18-1-1998 on a consolidated remuneration of Rs. 1500/- per month. Subsequently from 19-1-98 she was directly engaged and continued by the Respondent Company till 30th September, 1999. During the said period she was paid a consolidated monthly remuneration of Rs. 2500/- per month besides paying lunch allowance and conveyance allowance, as admissible. She was kept out of employment with effect from 30-9-99 while retaining certain similarly situated workers who are juniors to her. In fact such a decision to keep her out of employment from the Respondent Company was taken when she was on maternity leave. The orders of appointment stipulating periods and extending them from time to time is only to deprive her the benefits of the I.D. Act.

3. That she has put in more than 240 days of service, she is entitled to be considered for regular appointment whereas even she is being denied the continuance of employment, let alone the regularisation. The applicant further submits that, ignoring her claim, many freshers are being engaged by the Company, which is contrary to the provisions of law. The Respondent Company has violated Sec. 25-F of the I.D. Act and hence, the very removal is void ab initio. The Petitioner further states that brushing aside her claim the Respondent Company resorted to engage freshers from the market which is also not in consonance with the decisions of various Courts in this regard. It is further stated that the tenure system adopted by the Respondent is with an aim to mask the relationship of master-servant and to deprive her the benefits under the I.D. Act. Since her request for reinstatement not being conceded by the Respondent Company she approached the Hon'ble High Court of A.P. by filing writ petition No. 26415/1999. Further, subsequently, the Petitioner filed a memo dated 12-7-2001 seeking permission of the Hon'ble High Court to withdraw the writ petition to pursue her remedies before the Hon'ble Labour Court. Accordingly, the High Court granted permission that there is abundant work in the Respondent Company and the work on which

she was engaged is perennial in nature as such the inaction on the part of the Respondent Company to reinstate her into service with all consequential and attendant benefits is illegal and arbitrary, contrary to the provisions of the I.D. Act. Hence, it is prayed that the Hon'ble Court may direct the same to the Respondent.

4. A counter was filed stating that the allegation that the Petitioner worked under Respondent No 2 Company as counter staff from 12-11-96 to 18-1-98 is false and incorrect. During this period the Petitioner was engaged for typing, filing and other secretarial work only on a monthly remuneration of Rs.1500/- Subsequently on the request of the Petitioner she was engaged as counter staff on contract basis for a period of one year from 19-1-98 to 18-1-99 on a monthly remuneration of Rs. 2500/-. Later the Company in view of temporary increase in volume of business extended the service of the Petitioner from 19-1-99 to 30-6-99 and further from 1-7-99 to 30-9-99. That the extension of service from 1-7-99 to 30-9-99 was purely on compassionate grounds, on her request for the reason that her husband who is an Indian Army Soldier was engaged in Kargil War. It is incorrect to state that the Petitioner was kept out of employment from 30-9-99 while retaining similarly placed employees who are juniors to her and that such a decision was taken to keep her out of employment when she was on maternity leave. It is also incorrect to state that the orders of the appointment stipulating periods and extending them from time to time is only to deprive her benefits under I.D. Act. Moreover, it was the Petitioner who without any prior notice stopped attending the office from 3-9-99. The Petitioner cannot claim any regularisation as her employment was purely on contractual basis which was extended twice as there was temporary workload which was to be carried out. The employment of the Petitioner came to an end with effect from 30-9-99 when her extended period of work expired and there was no further extension. The Petitioner even before 30th September, 1999 stopped coming to work without prior intimation of notice. There is no abundant work in the Respondent company for which the Petitioner was engaged and the work is not perennial in nature. The livelihood of the Petitioner was not affected as the husband of the Petitioner is in military service which provides substantial safeguards and facilities for its personnel and family members. No other person is appointed in place of the Petitioner and the work she was doing is being done by a regular employee and no more additional manpower is required. She is not entitled for any benefit under the I.D. Act or any other Acts in force. The claim of the Petitioner is speculative and the allegations are very vague. Hence, it is prayed that the petition may be dismissed.

5. The Petitioner examined herself as WW1 and deposed to the said facts and further deposed that she is married and she was pregnant and her due date for delivery was 28-9-99 and she had to go on leave. On 1st September,

1999 she attended the office and she was not well. She informed orally that she has to go for checkup and require two days leave. That on 2-9-99 she sent a leave letter through her brother stating that as per Doctor's advice she will be able to attend office only after delivery. She has telephoned in between to extend her leave and also her leave period. But they said that they cannot grant leave beyond 30-9-99 and then she approached RI. But, in the meantime on 6-10-99 she was issued a letter terminating her services from 2-9-99, evening which is Ex. W1. Ex. W2 is the appointment letter dated 14-1-98. Ex. W3 is the order of the Hon'ble High Court permitting her to pursue her remedies. That she issued a request cum notice to engage her to RI with a copy to R2 which is Ex. W4. That her work was satisfactory. They also took new appointees and they have been continued. Although she had put in more than 240 days service she was not given any notice nor paid in lieu thereof. Hence, she may be reinstated with full benefits.

6. In the cross examination, she deposed that there was no appointment order when she was initially appointed from 12-11-96 to 18-1-98. She was a counter staff during the said period, in addition for some time she did typing, filing and secretarial work. That there was increase in workload. Therefore, she was appointed for one year on contract basis from 19-1-98 to 18-1-99, again extended from 19-1-99 to 30-6-99. That again her work was extended from 1-7-99 to 30-9-99. It was done voluntarily and not as suggested to her because of compassion or due to her pregnancy and that her husband was fighting at Kargil. Initially as she was not well, the Manager orally permitted her to go for a check up for one day where she was advised by the Doctor to get admitted and she was in the hospital for one week. Her brother Mr. Santosh Sukumaran called up the Manager next day on phone and informed him. He told him that it is not necessary to give leave letter. It is not true that she did not ask nor the Manager permitted her orally or in writing nor her brother telephoned and she was unauthorisedly absent. She also deposed that she was not given one month notice or pay in lieu thereof.

7. The Management examined the Branch manager, Sri Mahesh Kumar Neralkar who stated that he is working as Branch Manager from 1-2-2000 with second Respondent. Although he joined 2nd Respondent on 27-6-99 and deposed the said facts as stated in the counter and also further deposed that the Petitioner stopped coming for work without any leave. Her appointment was on application and purely on contract and temporary basis. The extensions were according to their need and last one was purely on compassionate grounds. In her place a permanent employee has been transferred to do the same work.

8. In further chief examination he deposed that Ex. M1 is the application given by WW1 on 7-1-98. Ex. M2 is the acknowledgement given by WW1 dated 19-1-98 acknowledging Ex. M3 the contract dated 14-1-98. Ex. M4 is

the extension of contract from 19-6-99 to 30-6-99. Ex. M5 is the leave account given to the Petitioner informing her that any leave beyond 20 days will be without pay. Ex. M6 is the note sent by Branch Manager that is, Respondent No. 2 to Respondent No. 1 for extension on compassionate ground for 3 more months. Ex. M7 is a letter dated 1-7-99 extending the period of contract from 1-7-99 to 30-9-99. Ex. M8 is the leave account of the Petitioner dated 14-7-99. Ex. M9 is the letter dated 1-10-99 termination letter addressed to WW1. Ex. M10 is the attendance register from April, 1998 to September, 1999 which shows leave details of WW1. Ex. M11 is the leave application of WW1 on 11-8-99 and 25-8-99.

9. In the cross examination he deposed that theirs is a Central Government undertaking. That they have been registered under Shops and Establishments Act also. That he was recruited as an officer in 1989. That he was an officer when the Petitioner joined and also when she left. She joined on 12-11-96 and left on 3-9-99. He was aware that she was pregnant. The Petitioner was left on her own accord. It is not true that she was entitled to maternity benefits. He is not aware whether she is entitled 6 weeks maternity leave under AP Shops and Establishments Act, 1998. As per the rules anybody absent has to give leave application. He is not aware whether under the above Act she can absent herself during her delivery. It is correct that two ladies are working on temporary basis Mrs. Tej Patel and Mrs. Manpreet. But it is not correct that they were trained under the Petitioner. Mrs. Tej Patel left 7 months back on her own accord while Mrs. Manpreet is continuing. It is not true to suggest that under provisions of Shops and Establishments Act her monetary benefits were paid and she deemed to be in service till the dues are paid. ESI card was issued to her. He cannot say whether letter dated 27-9-99 was written by Petitioner and is for ESI card, extension of contract and other things. Letter is shown to him purporting that was received by their office and sealed and signed.

10. It is argued by the Learned Counsel for the Petitioner that the admitted facts are that she worked as a contract labour from 12-11-96 to 18-1-98 on a consolidated remuneration of Rs.1500 per month. Subsequently from 19-1-98 she was directly engaged and continued by the Respondent Company till 30th September, 1999. During this period she was being paid a consolidated monthly remuneration of Rs.2500/- per month besides lunch allowance and conveyance allowance. From 30-9-99 she was kept out of employment while retaining similarly placed workers. All the exercise of appointment, stipulating periods and extending them from time to time are only to deprive her the benefits under I.D. Act. Further she has completed 240 days in a year as such she is entitled to be considered for regular appointment on the contrary she is being denied even the continuance of employment. The company has utterly violated sec. 25-F of the I.D. Act. The retrenchment

affected is void ab initio. She approached the Hon'ble High Court by filing writ petition No.26415/99 that the said writ petition was admitted by Hon'ble High Court. The workman withdrawn the same. Further, no notice as contemplated under A.P. Shops and Establishments Act has been given. As a result the termination is bad in law. Further, she was on her family way and on 2nd September, 1999 due to certain sudden health gynecological problems she could not attend the office from 2-9-99 and she delivered a female child on 16-10-1999. Since she is lady she is entitled for a benefit u/s 25 of the Shops and Establishments Act and further she is entitled for another six weeks of leave from the date of delivery as per Sec.24, 25 read with Rule 10k of the AP Shops & Establishments Rules, 1990 and she was not paid service compensation, she deemed to be in employment as per Sec.47(4) of AP Shops and Establishments Act. This case squarely covered by the decision of the Supreme Court in Ganganagar Urban Coop. Bank Ltd., Vs. Prescribed Authority, (1997) 6 SCC, at page 31:

"Conjoint reading of the above provisions does indicate that Section 28-A of the Act and Rule 20 of the Rules mutually run in opposite streams. Section 28-A envisages that no employer shall dismiss or discharge an employee from his employment who has been in such employment continuously for a period of not less than six months except for a reasonable cause and that too after giving such employee at least one month's prior notice or on paying him one month's wages in lieu of such notice. The proviso postulates that the employer also shall have the power to dispense with the services of the employee for misconduct and such misconduct shall be enquired into in accordance with the Rules made in that behalf and supported by satisfactory evidence recorded at an enquiry held for the purpose in the prescribed manner".

11. In this case MW1 has categorically admitted that the Respondent establishment is registered under the Provisions of A.P. Shops and Establishments Act and Sec.28 A of the registration of Shops and Establishments Act are one and the same. Even in this case notice as contemplated under Sec.47 of the A.P. Shops and Establishments Act has not been given, thereby rendering the termination illegal. Therefore, he submits that she is entitled for reinstatement with full back wages.

12. It is argued by the Learned Counsel for the Respondent that the dispute raised by the Petitioner is frivolous speculative created for the purpose of harassing the Respondent Company on false and baseless claims. The Petitioner was never engaged as counter staff from 12-11-96 to 18-1-98. The Petitioner was engaged for typing, filing and other secretarial work only on a monthly remuneration of Rs.1500/- per month.

13. The Petitioner was engaged as counter staff on a contract basis for a period of one year from 19-1-98 to

18-1-99. Later on, the Company in view of increase in volume of work extended the services of Petitioner from 19-1-99 to 30-6-99. Another extension was given on compassionate ground as her husband, according to her a soldier, was engaged in Kargil War from 1-7-99 to 30-9-99. As per the terms and conditions stated in Ex.M3 the Petitioner has voluntarily accepted the terms and conditions in Ex. M3 in her letter dated 19-1-99 which is marked as Ex.M2. The Petitioner has clearly stated in her chief examination that she was appointed on contract basis. It is incorrect to state that the Petitioner was kept out of employment from 30-9-99 while maintaining similarly placed employees who are juniors to her and such a decision was taken when she was on maternity leave. Moreover, the Petitioner without any notice stopped attending the office from 3-9-99. The Petitioner was in the habit of taking long leave without prior approval, more leaves than she is entitled, which is evidenced by Ex.M5. The Petitioner cannot claim any regularisation as her employment was purely on contractual basis as shown in Ex.M3 where clause-I, clearly reads as follows: "You shall be on contract, purely on work-charged basis for a period of one year with effect from the date you join us". The Petitioner has not produced a single piece of evidence to substantiate her claim under I.D. benefits. The employment of the Petitioner came to an end with effect from 30-9-99 when her extended period of work expired and there was no further extension. The Petitioner also accepted her last pay of Rs. 143.74 towards 2 days pay for the work done in the month of September, 1999. It is clear from Ex. M9. The Petitioner stopped attending the officer on her own without prior approval, intimation and notice. Hence, the question of termination, retrenchment does not arise. Petitioner is falsely stated that there was no practice of writing leave letter, that she has taken one day in her career, when Ex. M5, M8 and M11 clearly shown that the Petitioner has taken leaves more than what she was entitled to an even accordingly her pay was deducted towards leaves over and above her entitlement.

14. There is no abundant work in the Company and the Petitioner was never engaged in any perennial nature of work. That her husband is in military service which provides her substantial safeguards. Further no other person is appointed in her place. No evidence has been brought forward by the Petitioner that new persons have been appointed in her place. The work that was being done by the Petitioner is now being done by a regular employee. The claim of the Petitioner is vague and speculative in nature and she is not covered u/s 2 (oo) and proviso (bb) to Sec. 2 (oo) which provides that retrenchment does not include termination of service as a result of non-renewal of contract of employment on its expiry or of such contract being terminated under a stipulation in that behalf contained therein. Further, she is not a workman as envisaged in I.D. Act as her monthly salary was Rs.2500/- per month.

15. It may be seen that the Petitioner has worked from 12-11-96 to 18-1-98 on consolidated remuneration of Rs. 1500/- per month. Subsequently from 19-1-98 she was directly engaged and continued by the Respondent till 30-9-99. The question is whether she was on maternity leave. It is admitted by the Respondent's Counsel that A.P. Shops and Establishments Act, 1988 is applicable to that concern. Hence, under Sec.24, 25, any women employee who is for six continuous months preceding the date of her delivery shall be entitled for six weeks leave preceding her delivery and six weeks following the delivery. Ex.M7 shows that her contract was further extended for three months from 1-7-1999 to 30-9-1999. Obviously during this period only six weeks would have been over and as per Ex. M9 her services were terminated with effect from 2-9-99. No doubt it is an employment under contract. But yet in view of the A.P. Shops and Establishments Act, 1988 as her services were terminated from 2-9-99 and for 1st and 2nd she has received wages of Rs. 144/- So she is entitled for wages upto 30th September, 1999. Further, her contract ought not to have been terminated and some extension should have been given for further 6 weeks after her delivery. No doubt, here the date of delivery is not clear. Yet I am of the opinion that another six weeks wages should be paid to her beyond September. Total 12 - 1/2 months pay that is, she was drawing Rs. 2500/- per month. So she is entitled to receive Rs. 6,250/- No doubt, she has received wages for two days, but, I do not think it is necessary to deduct the same. As such I hold that she is entitled for Rs. 6,250/- to be paid to her on or before 1st December, 2003 failing which she will be entitled to interest at 12% p.a. on the said amount from 1-12-2003 and further if the Company engages anybody for Travel Operation either on contract basis or on temporary basis Petitioner should be given preference over others taking her date of service as 12-11-96 and her age as on 12-11-96.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 13th day of October, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Smt Ciba Sukumaran

MW1: Sri Mahesh
Kumar Neralkar

Documents marked for the Petitioner

Ex.W1: Letter No.BL/P&A/Contractual-Hyd, dt.6-10-99

Ex.W2: Letter No.BL/P&A/Contractual-Hyd, dt. 14-1-98

Ex.W3: Copy of order in WP No.26415/1999 dt. 19-7-2001

Ex.W4: Copy of representation of WW1 dt. 31-7-2001

Ex.W5: Copy of birth certificate of WW 1's baby.

Documents marked for the Respondent

EX.M1: Application of WW1 dt. 7-1-98

Ex.M2: Acknowledgement given by WW1 dt. 19-1-98 for Ex.M3

Ex.M3: Letter No.BL/P&A/Contractual-Hyd, dt. 14-1-98

Ex.M4: Letter No.BL/P&A/Contractual-Hyd, dt. 18-2-99

Ex.M5: Copy of letter mentioning leave account of WW1 dt. 5-6-99

Ex.M6: FAX message to R1 by R2 for WW1 's continuation

Ex.M7: Letter No.BL/P&A/Contractual-Hyd, dt. 1-7-99

Ex.M8: Leave account of WW1 dt. 14.7.99

Ex.M9: Letter No.BL/P&A/Contractual-Hyd, dt. 6-10-99

Ex.M10: Attendance register from April, 98 to September, 99

Ex.M11: Leave application of W/W1 in the proforma dt.4.8.99

नई दिल्ली, 12 दिसंबर, 2003

का. आ. 77.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल वेपर हाउसिंग कार्पोरेशन के प्रबंधतात्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 57/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[डायरी सं. 197/दि. 12-12-03]

बी. एम. डेविड, अवर सचिव

New Delhi, the 12th December, 2003

S.O. 77.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Warehousing Corp. and their workman, which was received by the Central Government on 12-12-2003.

[Dy. No. 197/12-12-03]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

SHRI E. ISMAIL, B. SC., L. L. B., Presiding Officer

Dated the 11th day of November, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 57/2003

(Old I. D. No. 230/2000 transferred from Labour
Court, Guntur)

BETWEEN:

Sri Devineni Radhakrishna,
S/o Sivaramayya,
Bhushana Gulla,
Peda Parupudain Mandal,
Krishna Distt.

.... Petitioner

AND

1. The Branch Manager,
The Central Ware Housing Corporation,
Gudiyada.
Kristna Distt.

2. The President,
C.W.C. Labour Contract Co-Operative
Society, C.W.C. Office, Gudiyada,
Krishna Distt.

2. The President,
C.W.C. Muta Workers Union,
C.W.C. Office, Gudiyada,
Krishna Distt.

.... Respondents

APPEARANCES:

For the Petitioner : M/s. Y. Subramanyam and A. Vinod Rao, Advocate

For the Respondent : Sri. B. Ramesh for R1. Sri Y. Sitaramayya for R2 and R3, Advocates

ORDER

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 by the Labour Court, Guntur in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 bearing I.D. No. 230/2000 and renumbered in this Court as L.C. I.D. No. 57/2003 and notices were issued to the parties.

2. The proceedings in the case reached for Petitioner's evidence. The Petitioner submitted his affidavit to that effect. The Petitioner has filed a memo today, i.e., the 11th November, 2003 withdrawing the LCID No. 57/2003 with a right to approach the Assistant Labour Commissioner (C), Vijayawada. Accordingly, he is permitted to approach the Assistant Labour Commissioner (C) and the case is closed as prayed for.

Ordered accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 11th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	Nil
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Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 12 दिसम्बर, 2003

का. आ. 78.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में० मिनरल एक्सप्लोरेशन कार्पोरेशन लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचात (संदर्भ संख्या 206/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[डायरी सं. 198/दि. 12-12-03]

बी० एम० डेविड, अवर सचिव

New Delhi, the 12th December, 2003

S.O. 78.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 206/2001) of the Central Government Industrial Tribunal cum Labour Court Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mineral Exploration Corp. Ltd. and their workman, which was received by the Central Government on 12-12-2003.

[Dy. No. 198/dt. 12-12-03]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT:
HYDERABAD

PRESENT:

SHRI E. ISMAIL, B. SC., L. L. B., Presiding Officer

Dated the 13th day of October, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 206/2001

(Old I.D. No. 5/1999 Transferred from Industrial Tribunal cum Labour Court, Warangal)

BETWEEN:

Sri K. P. S. Nair,
S/o Parameshwaran Nair,
Ex. Employee, MECL,
R/o Boopalpalli,
Distt. Warangal

.... Petitioner,

AND

1. The Chairman cum Managing Director, Mineral Exploration Corporation Ltd., Baba Ambedkar Bhavan, Seminary Hills, Nagpur-440006.
2. The General Manager, Mineral Exploration Corporation Ltd., Bhoopalpalli, Warangal Distt..
2. The Senior Training Officer, Mineral Exploration Corporation Ltd., Seminary Hills, Nagpur-440006. Respondents

APPEARANCES:

For the Petitioner : Sri S. Rajamalla Reddy, Advocate

For the Respondent : M/s. P. Nageswar Sree, K. Raghuram Reddy and Ch. Venkat Raju, Advocates

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act 1947 by the Industrial Tribunal cum Labour Court, Warangal in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 5/1999 and renumbered in this Court as L.C.I.D. No. 206/2001.

2. The brief facts as mentioned in the petition are: That the Petitioner was appointed as Winding Engineer Man (WEM) in the Respondent corporation on 6-6-95 and worked till he was illegally terminated on 17-4-99. That he was posted in Hyderabad and he was transferred to Calcutta, Hyderabad, Harur and Bhoopalpalli. The Petitioner was released from Harur project with effect from 23-2-98 afternoon with specific direction to report to duty to Project Manager, Bhoopalpalli. That earlier to the transfer

order he was not felling well and he was taking ayurvedic treatment. Due to illness the Petitioner could not report for duty at Bhoopalpalli. He sent telegram on 26-2-98 stating that he is sick and sanction the leave. But the Management without considering the same issued Memorandum dated 23.2.98. The Petitioner submitted his explanation giving the reasons which prevented him from attending the duties and also submitted medical certificate. That he submitted joining report on 21-1-98. The Management without considering the extenuating circumstances, appointed an Enquiry Officer and proceeded with enquiry. In the enquiry no witnesses were examined on behalf of the Management. That the maximum punishment of dismissal is disproportionate to the alleged misconduct. He has put in 14 years of service. He also filed an appeal to the Chairman cum Managing Director but it is not seen the light of the day. He is unemployed since his dismissal. Hence, removal order dated 17-4-99 be modified into one of reinstatement into service with continuity of service, full back wages and all other attendant benefits.

3. A counter was filed by the Respondents stating that at the Bhoopalpalli Project the Respondent is working in the mines of S.C.C. Ltd., and that the Petitioner was employed in the establishments of the Respondent at Bhoopalpalli Project at A.P. As this establishment is a 'Mine' the appropriate Government for the Respondent Company is Central Government under I.D. Act, 1947. That the Petitioner was employed in the Bhoopalpalli KTK-3 Project as Winding Engine Man and has been in the company since 6-6-85. That the Petitioner was posted to Bhoopalpalli KTK-3 Project and was released from the Harur Project with effect from 14-2-98 with a direction to report for duty to the Project Manager, Bhoopalpalli KTK-3 Project for further assignment. He did not join at the place of work at Bhoopalpalli till 15-7-98. He was issued with a memo dated 17-4-98 for absenteeism. Despite the memo as he did not join he was issued with a charge sheet dated 29-7-98. He received the same. An enquiry was conducted. One witness was examined on behalf of the Management. Enquiry Officer submitted his report holding that the charges are proved against the Petitioner. The Petitioner submitted his reply dated 11-3-1999. He was dismissed with effect from 17-4-99.

4. The Petitioner preferred an appeal against the dismissal order which was also rejected by the Appellate Authority vide his order dated 2-9-99. In the past also he was issued penalty for unauthorized absence vide orders dated 15-4-95, 19-10-94 and 6-4-94. During the Period of absence he did not send any sick certificate but at the time of joining he came with sick and fitness certificates which is not considered by the Management due to many

reasons. During the enquiry the Petitioner himself pleaded guilty of the charges levelled against him. He was given a fair opportunity in the enquiry and after enquiry also he was given opportunity to make representation against the findings of the enquiry. He was chargedsheeted several times for unauthorized absence and hence the punishment inflicted upon the Petitioner was proper. Hence, the petition may be dismissed.

5. As domestic enquiry was held valid on 29.10.2002, as both the counsels were present and requested that domestic enquiry may be held valid. Hence, the only point for consideration is whether any relief can be granted to the Petitioner under Sec. 11A. The Petitioner and his Counsel were continuously absent. Accordingly, arguments of the Respondent Counsel were heard and award was reserved.

6. The Learned Counsel for the Respondent argued that the Petitioner does not deserve any sympathy as the Petitioner's Counsel has already conceded that the domestic enquiry is validly conducted. Therefore, the order of dismissal may be confirmed.

7. It may be clearly seen that as per the charge sheet the allegation against him that on transfer to Bhoopalpalli he did not join and remain absent from duty with effect from 23-2-98. So on that ground he was dismissed. No doubt he has pleaded sickness but putting two plus two it is very clear that he was dissatisfied with his transfer and in the charge sheet it is also mentioned that he is in the habit of frequently proceeding on the leave and over staying in the sanctioned leave. In the enquiry it has come that he was censured previously also for his unauthorized absence and he has been removed from service on 17-4-1999 with immediate effect.

8. It may be seen that he has been working from 6-6-85 and dismissed on 17-4-1999. I am of the opinion that the punishment is too harsh. Hence, the award is passed as follows: The Petitioner's dismissal dated 17-4-99 is converted into one of compulsory retirement on 17-4-99. He will be entitled for all the benefits as if he has been compulsorily retired on 17-4-99. More so, when the unit is closed and permission is granted by the Ministry of Labour vide letter dated 26-11-2002 for closure of the Industrial Establishment at Bhoopalpalli.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 13th-day of October, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

**Witnesses examined for
the Petitioner**

NIL

**Witnesses examined for
the Respondent**

NIL

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

NIL

मई दिल्ली, 12 दिसम्बर, 2003

S.O. 79.—ऑटोग्राफिक विवाद अधिनियम, 1947 (1947 का 14) की अंडा 17 के अनुसरण में, केन्द्रीय सरकार मैं। संकर केमिकल लाइम के प्रबंधातांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में भिर्टिंग औटोग्राफिक विवाद में केन्द्रीय सरकार औटोग्राफिक अधिकारण, चेन्नई के पंचाट (संदर्भ संख्या 117/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[सं. एस-29011/11/2003-आई.आर. (विविध)]

बी.एम.डॉ. डेविड, अब्द सचिव

New Delhi, the 12th December, 2003

S.O. 79.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Sankar Chemical Lime and their workman, which was received by the Central Government on 12-12-2003.

[No. L - 29011/11/2003-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI**

Thursday, the 27th November, 2003

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 117/2003

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Sankar Chemical Lime, Abooy Gardens and their workmen.)

384762/03 — 9

BETWEEN

The General Secretary,
Cement & Quarry Workers Union
Sankarnager.

: I Party/Claimant

AND

The Partner,
Sankar Chemical
Lime, Tinunelveli,

: II Party/Management.

APPEARANCE:

For the Claimant : Sri E. Viswanathan,
Authorised Representative.

For the Respondent : Sri S. Jayaraman, H. Balaji,
V. V. Balasubramanian,
Advocate.

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-29011/11/2003-IR (M) dated 21-5-2003 has referred the following dispute to this Tribunal for adjudication. The Schedule mentioned in that reference is—

“Whether the removal of Shri S. Thirumalai and other 9 workers from service by the management is justifiable? If not, what relief they are entitled to?”

2. After the receipt of the reference, this Tribunal has numbered the same as I.D. No. 117/2003 and issued notices to both parties. Both parties entered appearance through their authorised representative and the advocates respectively. On the first hearing itself, the I Party/Petitioner Union has filed a memo stating that all the ten workers involved in this industrial dispute have been taken back into service by the II Party/ Management and therefore, the Petitioner requested the Tribunal to close the dispute, as settled.

3. The II Party/ Management's advocate has also taken notice of the same.

4. The said memo was recorded. In these circumstances, the dispute is closed as settled. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th November, 2003).

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 80.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, नई दिल्ली के पंचाट (संदर्भ संख्या 193/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[सं. एल-12012/7/96-आई आर (बी-II)]

सी० नंगाधरण, अवर सचिव

New Delhi, the 15th December, 2003

S.O. 80.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 193/1997) of the Central Government/Industrial Tribunal-cum-Labour Court, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 12-12-2003.

[No. L-12012/7/96-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER : SHRI B. N. PANDAY

Industrial Dispute No. 193/1997

Shri Ram Shankar,
S/o Shri Ramswarup,
R/o Village Bagia,
P. O. Allahganj, Tehsil Jalalbad,
District Shahjahanpur, U.P.
Through :—The Zonal Secretary
U. P. Bank of Baroda Employees
Union (Western Zone)
Central Office—Beliy Bazar-Ghautaghar
Branch, Meerut.

... Workman

Versus

The Regional Manager,
Bank of Baroda
Regional Office Govindganj,
Shahjahanpur, U. P.

... Management

AWARD

1. The following industrial dispute was referred to this Industrial Tribunal-cum-Labour Court for its adjudication, vide Order No. L-12012/07/96-IR(B-2) dated 21-4-97 of the Ministry of, Labour Government of India :—

“Whether the action of the management of Bank of Baroda, Shahjahanpur, in not confirming the service

of Shri Ram Shankar in the post of Peon is justified and fair ? If not, what relief he is entitled and from what date?”

2. The brief facts as alleged in the statement of claim are that the workman was initially appointed at Allahganj Branch of Bank of Baroda under its Shahjahanpur region in U. P. from 17-10-88 and after he had worked there in the post of a peon till September 1990 his services were discontinued but with an artificial break, he was re-appointed in the same branch and continued in service till May 1993. That the workman was asked by the Manager of Allahganj Branch to report at Regional Office, Shahjahanpur in May 1993 and accordingly, Shri Ram Shankar reported at Regional Office Shahjahanpur where he was required to once again produce copies of his caste and educational certificate etc. the workman produced the certificates as required by the Regional Office. The Regional Office of the Bank gave a letter dated 26-5-93 addressed to the Branch Manager Allahganj Branch and took the signatures of the workman in the letter and sent the workman to Allahganj Branch for joining duty. The workman joined the duty on 26-5-93 at Allahganj Branch as Peon. That the workman has been continuously working as Peon in the Bank against permanent vacancies. There were two permanent peons at Allahganj Branch namely Shri Sharafat Ali and Shri Prem Lal in October, 1998 when the workman joined on 17-10-88, Shri Sharafat Ali was transferred to another branch on promotion as clerk.

3. That those employees who were engaged in service subsequent to the engagement of the workman and were juniors to him have been absorbed and regularised in the service where as the workman has not been given that benefit; that the action of the management of Bank of Baroda in not confirming the workman Shri Ram Shankar in the post of Peon in bank service is utterly, unfair, unjust and illegal. Hence the workman has raised this dispute claiming his confirmation/absorption in the service against permanent vacancy at least w.e.f. 26-5-93 when he was appointed again at Allahganj Branch vide Regional Office letter dated 26-5-93, with all other service benefit.

4. The claim of the workman has been contested by the management by way of filing a written statement where in it has been inter alia alleged that sub staff is also appointed by Regional Managers with concurrence and approval of Zonal Manager; that sometimes occasionally the management is also compelled to engage ‘daily rated workers’ on adhoc basis for coping with pressing necessity/contingency; that in fact the workman was engaged as labour depending upon the exigencies of the work hence breaks in between was due to every day’s requirement. It is specifically denied that there was any question of artificial break or discontinuance of any service. That the letter dated 26-5-93 does not give any legal right to the claimant; that the claimant who was engaged as

labour water boy on daily wages could not be considered for absorption as per guidelines and the norms; that the claimant had never worked in any permanent post at any point of time, he was not even temporary as alleged and in fact he was engaged as labour for serving water on daily wages; that the re-engagement of the workman was done in the year 1993 only to comply with the obligation imposed under section 33 of the I.D. Act and also to honour the instructions of the learned ALC (C) Dehradun Branch; that the bank had engaged Mr. Ram Shankar at its Kalan Branch. However, there was no change in the conditions of the engagement; that para 495 of Sastry Award cannot be applied in the present case of the claimant who was engaged on daily wages basis as casual worker; that there was no permanent vacancy and the claimant had never qualified for any post. The engagement of the claimant was depending upon the requirements on day to day basis; that none of the action of the bank was unjustified at any point of time or there was any discrimination as alleged; that the claimant never completed the minimum criteria of 240 days in a calendar year before the orders of the learned ALC Dehradun. Hence the claim petition deserves to be dismissed.

5. The workman has also filed his rejoinder denying the contents of W.S. and reiterating his earlier versions.

6. Both the parties filed documents and the management filed affidavit of MW1 Shri Vijay Sulekh who was also cross-examined on behalf of the workman. On the other hand the workman filed his own affidavit as WW1/I and was also cross-examined by the management.

7. I have heard ld. representative/counsel of both the sides and perused the file.

8. Admittedly, the workman has been continuously in the employment of the management Bank at least from 26-5-93, even if the first spell of employment from 17-10-88 to September 1990 is taken out. Even on date the workman is working as peon. The MW1, has admitted the transfer of permanent peons from Allahganj branch. Though the MW-1 states that one Joginder Pal was working as sweeper on promotion was converted as Peon, the order of such conversion has not been placed on record. The fact remains that the workman has been continuously working since 26-5-93 except for the break on account of termination of service on 17-10-94 during the pendency of conciliation proceedings and the workman was reinstated in the service 13-1-95 at the intervention of the Conciliation Officer.

9. That the contention of the management that the workman did not apply in pursuance to the Scheme introduced in December 1990 is unsustainable being irrelevant. The scheme was introduced in December, 1990 as one time measure for absorption of temporary employees. True, the workman was working from October, 1988 to September, 1990. After this spell, the workman joined the

services of the Bank on 26-5-93 at Allahganj Branch in furtherance to letter dated 26-5-93. Therefore the aforesaid scheme can not come in the way to the case of the workman as the workman has been employed subsequent to the scheme also and has continuously been working. As far as the age is concerned, at the initial employment in October, 1988, the workman was Below 18 years. However the workman crossed the age limit of 18 years when he was employed vide letter dated 26-5-93 as his date of birth is 10-7-72 of course it has been contended by the workman that even at the initial employment the management was aware of his age as it had taken all the certificates and interviewed him. To my mind underage at the time of initial employment lost its significance when he crossed the 18 years of age well before the second spell of employment w.e.f. 26-5-93. The contention of the management was compelled to continue the workman in its employment has no merit. The workman was reinstated at the intervention of the Conciliation Officer on 13-1-95 and has been continuing in the service. The Industrial dispute with regard to non-confirmation in service was raised subsequently and resulted in the present reference. It was open to the Bank to approach this tribunal for terminating the service u/s 33 of the I.D. Act if the services of the workman were not really required. The management Bank opted to continue the employment and such continuous employment is proof of existence of permanent vacancies.

10. That clauses 20.7 and 20.8 of the first Bi-partite Settlement provide for the contingencies under which the temporary employees can be employed. The contingencies are that a temporary employee can be employed for a maximum period of three months, when there is temporary increase of volume of work, and when there is a leave vacancy of permanent employee. The continuous employment for all these years itself is a proof that the workman was not employed on the contingencies provided in the aforesaid clauses. Rather the long continuous employment itself is a proof that there was permanent vacancy against which the workman was employed.

11. Therefore the workman is entitled to confirmation of his services in the employment of the Bank as he has been continuously working in the Bank right from 26-5-93 except for short period from 18-10-94 to 13-1-95 and again from 13-1-95 onwards the workman has continuously been working in the Bank till date. The continuous employment itself is a proof of existence of permanent vacancy. The judgement of Gujarat Agricultural University Vs. Rathod Labhu Bechar and Others, 2001(3)SCC 574 of the Supreme Court is relied on by the Workman. The relevant portion of the judgement is extracted hereunder :

“It is also well settled, if the work is taken by the employer continuously from the daily wage workers for a long number of years without considering their regularisation for its financial gain as against

employee's legitimate claim, has been held by this court repeatedly as unfair labour practice."

12. In the above judgment the Hon'ble Court relied on the following portion of its own judgement in the case of Bhagwati Prasad Vs. Delhi State Mineral Development Corporation [1990 (1) SCC 361] and it would be proper to reproduce it hereunder :—

"Practical experience would always aid the person to effectively discharge the duties and is a sure guide to assess the suitability. The initial minimum education qualifications prescribed for different posts is undoubtedly a fact to be reckoned with, but it is so at the time of the initial entry into the service. Once the appointment were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them confirmation in the respective posts on the ground they lack prescribed qualification."

13. In view of the continuous employment and the practical experience gained as a peon entities the workman to confirmation of service and the non-confirmation of service within reasonable period, to my mind is unfair labour practice. Therefore, I hold the workman is entitled to confirmation of service as peon. The next question is from what date the workman should be confirmed in the service of the bank? The workman prayed for confirmation from the initial appointment or at least from 26-5-93 with pay and allowances. The period of probation in the case of workmen is six months. The workman though continuously working from 26-5-93 except for break on account of termination on 18-10-94 and the reinstatement on 13-1-95, the workman raised industrial dispute with regard to confirmation of service subsequent to reinstatement on 13-1-95 which would be just and fair date of confirmation of the services of the workman in the given facts of the case.

14. In view of above discussions the workman is entitled to the regular pay scales and allowances of peon, and other consequential benefits including the full back-wages minus the amount already received on account of wages w.e.f. 13-1-95.

Award given accordingly.

Dated : 9-12-2003

BADRI NIWAS PANDEY, Presiding Officer
नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 81.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एजेन्सिया अल्ट्रामेरीन सर्विसेज प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 39/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-2003 को प्राप्त हुआ था।

[सं. एल-36011/4/99-आई आर (एम)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 15th December, 2003

S.O. 81.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/1999) of the Central Government Industrial Tribunal—Labour Court No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Agencia Ultramarine Services Pvt. Ltd. and their workmen, which was received by the Central Government on 12-12-2003.

[No. L-36011/4/99-JR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT : Shri Justice S.C. Pandey,
Presiding Officer

Reference No. CGIT-39/1999

PARTIES:

Employers in relation to the management of
M/s. Agencia Ultramarine Services Pvt. Ltd.
and
Their women

APPEARANCES:

For the Management	: Mr. P.J. Kamath, Adv.
For the Union	: Absent.
State	: Maharashtra

Mumbai, dated the 28th day of November, 2003

AWARD

1. This is a reference made to this tribunal by the Central Government in exercise of its powers under Clause (d) of sub section 1 and sub section 2A of Section 10 of the Industrial Disputes Act 1947 (the Act for short) for giving an adjudication of award on the following Industrial Dispute.

"Whether the action of the management of M/s. Agencia Ultramarine Pvt. Ltd., Goa and M/s. Raman Krishna Dhuri, Goa in refusing employment to 32 workers as mentioned in their Annexure to the dispute raised by the Marmagoa Waterfront Workers Union, Goa w.e.f. 15-10-1998 is legal and justified? If not, to what relief the workmen are entitled for?"

2. Shortly stated the facts are that the Marmagoa Waterfront Workers Union had raised the dispute that 46 workmen were supplied to M/s. Sesa Goa Ltd. through M/s. Agencia Ultramarine Pvt. Ltd and its sub contractor

Raman Krishna Dhuri for performing work on a vessel named T.V. Orissa. The services of these workmen have been terminated by Sesa Goa. It was alleged that the contractor and sub contractor had no valid licence. The claim was that workmen were entitled to work on T.V. Orissa from 15-10-1998. The statement of claim specifically alleged that Sesa Goa Ltd. Was the principal employer and the two parties to the reference were contractor and sub contractors respectively.

3. The two written statements were filed on behalf of M/s. Agencia Ultra Marine Pvt. Ltd and Raman Krishna Dhuri. Both the parties denied the claim of the workman as laid in the statement of claim.

4. This tribunal by order dt. 28th June, 2003 rejected the application filed on behalf of the Union that M/s. Sesa Goa Ltd. is a necessary party.

5. Thereafter, the union representing the 46 workmen has ceased to take interest in this reference. The case was fixed 18-8-2003 and 27-10-2003 and 28-10-2003. Nobody appeared on behalf of the Union at Goa. Thereafter, the case has been fixed today for appearance of the party. The notice was served under certificate of posting.

6. Mr. Kamath appeared for M/s. Agencia Ultra Marine Pvt. Ltd. Nobdy appeared for the parties. After going through the statement of claim, it appears to this tribunal that case of Union was Sesa Goa Ltd., was the real employer and the M/s. Agencia Ultra Marine Pvt. Ltd., was the contractor and Raman Dhuri was the sub contractor. The relief was claimed against that party. It appears that after the passing of the order dated 28th June, 2003 the Union representing the 46 workmen was lost interest in the case. That is the reason why it did not appear before this tribunal at Mumbai and Goa.

7 In view of this matter, the industrial dispute no longer survives. The reference is answered accordingly. No costs.

S.C. PANDEY, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 82.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंसिट्यूट ऑफ पैट्रोलियम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 88/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-12-2003 को प्राप्त हुआ था।

[सं. एल-42012/33/97-जाई आर (डी.यू.)]

कुलदीप राय चर्मा, डैस्ट्रक्ट अधिकारी

New Delhi, the 15th December, 2003

S.O. 82.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. 88/2002) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Institute of Petroleum and their workmen, which was received by the Central Government on 15-12-2003.

[No. L-42012/33/97-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

Presiding Officer : SHRI B.N. PANDEY

I.D. No.88/2002

Shri Balwant Raj Patel,
Ex-Senior Scientific Assistant,
c/o Shri B.D. Tyagi, 16-A,
Rajpur Road, Dehradun.

Workman

Versus

The Director,
Indian Institute of Petroleum,
Mohkampur,
Dehradun.

Management

AWARD

The Central Government in the Ministry of Labour vide its order No. L-42012/33/1997-IR(DU) dated 31-12-2002 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of M/s. Indian Institute of Petroleum, Dehradun in terminating the services of Shri B.R. Patel, Ex-Senior Scientific Assistant w.e.f. 23-12-80 is just, fair and legal? If not what relief he is entitled to and from what date ?”

2. This industrial dispute was registered on 15-11-02 and notice to parties/respondent was issued for 18-2-03. Since 18-2-03 none has appeared for the workman. Despite notice and sufficient opportunity claim statement not filed. It appears that the workman is not interested in prosecuting the case. Hence no dispute award is given.

BADRI NIWAS PANDEY, Presiding Officer

Dated: 4-12-2003

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 83.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्टर फॉर

एन्वायरमेन्ट एण्ड एक्सप्लोसिव सेफटी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 4/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-12-2003 को प्राप्त हुआ था।

[सं. एल-14012/57/2002-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 15th December, 2003

S.O. 83.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2003) of the Central Government Industrial Tribunal/Labour Court, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Centre for Environment and Explosive Safety and their workmen, which was received by the Central Government on 15-12-2003.

[No. L-14012/57/2002-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI
PRESIDING OFFICER: SHRI B.N. PANDEY

I.D. No. 4/2003

Shri Shankar Lal Dixit,
C/o Bhartiya Shram Jeevi Sangh (Regd),
C-88.B. Lawyers Chambers, CL Joseph Block
Opp. P.O. New Delhi-110054. Workman

Versus

The Director,
Centre for Environment & Explosive Safety, DRDO,
Metcalfe House,
New Delhi-110054. Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-14012/57/2002-IR(DU) dated 29-11-2002/9-12-2001 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of Centre for Environment and Explosive Safety in terminating the services of Shri Shanker Lal Dixit, Ex-Trademan (E) w.e.f. 13-8-97 is just, fair and legal? If not what relief the workman is entitled to and from which date?”

2. This reference was received and registered on 1-3-2003 and for filing of claim notice to the parties was

issued for 20-3-2003. Despite several opportunity no claim statement has been filed. It shows that the workman does not want to contest the case.

3. Hence No Dispute Award is given.

Dated: 9-12-2003

BADRI NIWAS PANDEY, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 2003

का० आ० 84.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एजर इंडिया लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण I, मुम्बई के पंचाट (संदर्भ संख्या 19/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-11012/85/98-आई आर (सी-I)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 15th December, 2003

S.O. 84.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 19/99) of the Central Government Industrial Tribunal/Labour Court-I, Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workmen, which was received by the Central Government on 11-12-2003.

[No. L-11012/85/IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1

MUMBAI

PRESENT :

SHRI JUSTICE S.C. PANDEY, Presiding Officer

REFERENCE NO. CGIT-19/1999

PARTIES:

Employers in relation to the management of

Air India

AND

Their Woman

APPEARANCES:

For the Management : Mr. Benny Francis, Adv.

For the Workman : Workman present in person.

State : Maharashtra

Mumbai, dated the 28th day of November, 2003

AWARD

1. This reference is made to this tribunal by the Central Government in exercise of its powers under clause (d) of Sub-section 1 and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) for adjudicating upon the industrial dispute between Shri. N. B. Sawant (the workman for short) and the Air India Ltd. (the company for short). The terms of the dispute referred to this tribunal are being reproduced here as follows :

“क्या एअर इंडिया के प्रबंधतन्त्र द्वारा दि. 21-7-94 से
श्री एन.बी. सांजत की सेवाएं समाप्त किया जाना नियमानुसार
विधिवत् एवं न्यायपूर्ण है? यदि नहीं तो कर्मकार किस राहत के
पात्र हैं?”

2. It is alleged in the statement of claim that the workman was holding the post of Office Asstt. till 16-8-1993 in the Revenue and Refund Section of the company. The workman joined as Clerk and was promoted further as a Senior Clerk in the Finance and Accounts Deptt. of the company. Thereafter, further promotion was given to him. He alleged that he was confirmed in the post of Clerk from 1-12-1978. It was claimed by him that he met with an accident on 16-8-1993 while driving his motor cycle. It is alleged by the workman that he sought leave of absence by sending letter dated 17-8-1993 under certificate of posting. The workman stated that the fact of accident was immediately disclosed by him in his office. He stated further that the treatment for his illness was provided by Dr. S. B. Gupta and other family doctors. It is alleged that when the workman went with his application dated 20th May 1994, he was asked to undergo medical examination by two of the expert doctors in the panel of the company by the Chief Medical Officer. One of them was Dr. Ashit Seth who found him fit to resume duty as per medical certificate dated 24-8-94 and 7-9-94 declaring him fit to join the service. The other Dr. M. C. Vashnav had left Bombay for permanently residing South Africa. He could not be approached. However, in the mean while the workman was dismissed on 21-7-94 and the company filed the approval application No. 43/94. It was alleged that approval was granted at the instance of the workman without contest by this tribunal, with the right to challenge the order of dismissal dated 21-7-94 by raising an industrial dispute. The industrial dispute was raised by the workman before R.L.C. Central. On failure of reconciliation, the matter was reported to the Central Government by RLC (Central). Thereafter, the matter came to be referred to this tribunal. The workman submitted that he gave reply to charge sheet dated 17th Jan. 1994 alleging that he had remained absent without leave for more than 10 days. It is alleged by the workman that the explanation given in his letter dated 12th Jan. 1994 was not accepted and an enquiry was ordered to be held against him. The workman submitted that he had not received letter dated 1-3-1994 fixing the date of hearing of enquiry on 11-3-1994. The letter dated 12-3-94 fixing the enquiry on

24-3-1994 was received by him on 25-3-94. It is alleged by the workman that he wrote letter dated 26-3-94 to the convenor requesting postponement of the enquiry on the ground that he was physically and mentally unwell. He also demanded copies of previous letters. The workman was not supplied with those documents. It was claimed by the workman that no reasonable opportunity was given to him. An ex parte evidence recorded against him was in violation of principles of natural justice as the workman was unfit to attend the enquiry. The fact of illness was known to company because the Chief Medical Officer by letter dated 20-5-1994 had advised to treatment from the expert panel of doctors appointed by the company. The workman submitted that charge sheet was vague and deceptive. The workman submitted that he was not supplied with the copies of the earlier letters and the copies of the documents referred to in the enquiry. It was submitted by the workman when the workman tried to join the duties on 20-5-1994 with medical certificate of fitness. Dr. V. V. Kelkar and Dr. P. J. Shah, he should have been allowed to join the duties from that date and the management of the company ought to have dropped the enquiry. It is alleged by workman that the ex parte domestic enquiry proceeded without of “sheer malvolence hatred against him” for the reasons best known to them. It was stated by the workman that he could not be treated by Dr. S. B. Gupta of Dahisar, one of the doctors in the panel of Air India, because M.N. Birdy Accountant of Air India gave him threats. Therefore, he was treated by private doctors, Dr. V. V. Kelkar, Dr. P. J. Shah and Dr. Z. R. Haria between 25-2-1994 to 19-5-1994. It was alleged that on 20-5-1994 Dr. Vijay Kumar had referred him to Dr. Ashit Seth and Dr. Vashnav. It is alledged Dr. Sheth gave him fitness certificate on 7-9-1994. However, the workman stood already dismissed on 21-7-1994. The workman submitted that the findings of the enquiry are perverse for the reasons given by him in paragraph 9 of the statement of claim. The workman claimed that he was not given wages till the date of dismissal and so the enquiry was vitiated. The workman claimed that he remained unemployed. He sought that enquiry held against him, the order of dismissal, be set aside and he be reinstated with back wages. He claimed that company be directed to grant him ex-gratia leave between 17-8-1993 to 6-9-94 and the order of dismissal be held to be illegal as Asstt. Financial Controller was not his appointing authority.

3. In the written statement filed on behalf of the company, it was stated that the workman remained absent from 17-8-1993. The workman was asked to submit himself before the medical clinic of the company by letter dated 12-1-94. The workman agreed that he would be appearing on 14-1-94 but asked for further time till 17-1-1994. He did not appear on 17-1-94. He filed Medical Certificate that he was advised rest. In the written statement filed on behalf of the company, it was stated that the workman remained absent from 17-8-1993. The workman was asked to submit himself before the medical clinic of the company by

letter dated 1-1-1994, the workman agreed that he would be appearing on 14-1-94. He did not report on 14-1-94 but asked for further time till 17-1-94. He did not appear on 1-1-94. He filed medical certificate that he was advised rest for one week more. Thereupon, a charge sheet dated 17-1-94 was served upon him. The workman's reply was found unsatisfactory. An enquiry committee was constituted. The workman did not participate in the enquiry despite the fact he was given sufficient opportunity to plead his case. The enquiry was held ex parte. The workman was found to have committed the misconduct of which he was charged on the basis of oral and documentary evidence recorded during the course of enquiry. The competent disciplinary authority concurred with the findings in the enquiry report *prima facie* and after considering the past record of the workman issued show cause notice requiring the workman to state the reasons for not giving him the proposed punishment of dismissal. After considering the explanation of workman the order of dismissal date 27-7-94 was passed. It was pointed out that due to bad past attendance record of the workman thrice his increment was withheld and he was issued charge sheet twice in past for habitual late attendance. It was also stated that the medical services of the company had informed after detailed laboratory investigations that there existed no medical ground for remaining absent. No abnormality was found. The company denied all the allegation mentioned in paragraph 2, 3, 4, 5, 6, 7, 8 and 9 of the written statement. The company denied that workman was disabled from joining the duties on account of the Motor cycle accident as alleged by him. It was alleged regarding the allegations of Motor cycle accident that the company itself sent its employee to help him. However, these employees who visited him found that the workman was riding his Motorcycle. Even thereafter, the workman remained absent. He went on sending Medical certificates advising rest. The management of the company was ready to provide an ambulance for medical examination by the doctor of the company. The workman declined because no intentions to submit himself to medical examination and treatment by the doctors of the company. In fact the workman was faking illness so that he avoided going to the office, it was submitted on behalf of the company that the workman was fully aware of the pendency of the enquiry. He did not attend the enquiry deliberately for fear of exposure and hated that he may ultimately escape the action against him. He did not attend the enquiry though several appointment were given to him. The enquiry officer considered the medical certificate sent by the workman along with other communications. The workman was given further opportunity to submit his documents pertaining to his alleged inability to join duties but he failed to do so. It has been alleged that workman was given full opportunity to defend himself. The contents of paragraph 10, 11 and 12 were refuted. The

company prayed that the workman was not entitled to any relief. The enquiry was fair and the report proper. It was however, prayed in the alternative that the company was entitled to prove the charges before the tribunal means of fresh evidence in justification of the order impugned in case the domestic enquiry was set aside by the tribunal.

4. The workman filed the customary rejoinder. In rejoinder, the workman referred 19 documents stating that these documents were submitted by him to the company. It was submitted that Mr. K.B. Tatade was not his appointing authority. He could not pass the order of termination. It was further stated that the appellate authority was not indicated by him and for this reason dismissal was legal. He stated that he had filed two appeals, (i) Minister of Civil Aviation (ii) to Chairman of Air India. The workman submitted that the copies of earlier orders of punishment were not supplied to him. He disputed the punishment awarded to him was fit and proper and tried to explain the reasons for his late attendance. In his long rejoinder these are the only significant pleadings. Other facts are mere repetitions of the facts already stated or the denial of facts in the written statement. These pleadings do not take us any further than the original statement of claim. However, the workman being a layman, was given a long rope.

5. It appears that my predecessor in office did not frame any issue. The workman filed his documents on 1-7-1999. They were exhibited and on 22-7-1999 the management also filed the documents. They too were exhibited. The workman filed his affidavit on 12-8-99. Shri N.B. Sawant the workman was cross examined on 13-10-00. The workman filed 23 pages of affidavit. The order sheet did not indicate that the cross examination was confined to any preliminary point. The workman's cross examination was completed on next date. Thereafter, the workman examined Dr. V.V. Kelkar, Dr. P.J. Shah and Dr. S.B. Gupta orally. They were cross examined by Mr. A.R. Kulkarni. The workman further examined Shri. Zaverichand Hariyal, Dr. Ashit Sheth orally. They were cross examined by the counsel for the company. Mr. M.N. Birdy was examined by the workman on 28-10-2003. There was no cross examination. The company examined Mr. K.R. Khandagale, P.N. Menon, N.K. Rathod, Martin and Ms. Lopez by filing the affidavits of these witnesses in lieu of examination in chief. The workman cross examined them. Thereafter, the case was put up for arguments. Both the parties filed written arguments and did not express their desire to submit oral arguments.

6. This tribunal is first required to pay attention to domestic enquiry with a view to find out if it was conducted in accordance with the principles of natural justice and the standing orders applicable to him. It is clear from the

pleadings that the enquiry was held against the workman in his absence. The question if it was justified to do so. Was he given notice of the enquiry? In this connection, it would be proper to begin at the beginning that is to say, from the first step taken by the company toward enquiry. It is not in dispute that charge sheet dated 17th Jan., 1994 was framed against the workman and served upon by post stating that he was absent without permission from 17th August, 1993, and did not return to his duties despite several letters mentioned in the charge sheet. Consequently, he was charged with the following misconduct. "Absence without leave for more than ten days". The charge sheet was framed as per Model Standing Orders (Central). It appears the workman did not refuse that he received the show cause notice. On the other hand he admitted in cross examination that he gave detailed reply to the charge sheet, in his examination in chief he had stated that he had given reply on 10-2-1994 saying that he met with motorcycle accident on 16-8-1993 and thereafter, he was under medical treatment. It appears that this explanation was not accepted by the competent disciplinary authority. Having rejected the explanation, the workman was served with two letters dated 15-2-94 that an enquiry committee has been constituted against him. He was told that he was required to attend the enquiry committee. The workman did not specifically refer to the fact that he did not receive any information from the Competent Authority. The documentary evidence placed by the company on record along with enquiry papers show that a registered letter was sent to the workman. This tribunal concludes that the workman must have received it. The workman had neither pleaded nor proved by evidence that this order was not received by him. At internal page 45 and 46 record there are two letters under signature of Mrs. Pendse informing him about the constitution since the first document dated 15-2-94 endorses that the letter be sent by registered post as well as under postal certificate. The postal receipts of registration is filed. The acknowledgement was not returned to the company. However, it may be presumed that the workman must have knowledge about the contents of this letter particularly when he was pleading that he was medically unfit to move about. Thereafter, workman remained discreetly silent.

7. The next question whether the workman was aware about the dates fixed by enquiry committee and that enquiry officer satisfied himself about the dates fixed by him. It would be appropriate at this juncture to consider the case of the parties in the light of the pleadings of the workman and the company. The workman stated in paragraph 3 (at page 5 at bottom). "The workman further submits that he did not receive the enquiry committee's letters dated 1-3-1994 and 12-3-94 respectively. But the intimation about it was received by him on 25-3-94" So by letter dated 26-3-94 addressed to the convenor of the Enquiry committee he informed that he was still under medical treatment. In reply

to aforesaid the allegations made by the workman the contents of paragraph 3 were specifically denied on behalf of company in paragraph 13(b). It was further submitted that the workman was fully aware of the fact of the Departmental enquiry and that it was in progress. He allowed it to proceed ex parte with an ulterior intention. It was pleaded that the workman was given ample opportunity to face the departmental enquiry but he failed to take advantage of these enquiries.

8. The service of notice is an important step in the conduct of enquiry for proving that the concerned person was given full opportunity to appear. Its importance is enhanced in ex parte proceedings because it is *sine qua non* for proving that the principle of *audi alteram partem* was fully complied with. The enquiry committee cannot compel a person to appear before it. It can definitely give intimation to the person to appear. In the celebrated saying it has been stated that a "man cannot compel a horse to drink water but he can't take him near the water". The ritual of serving nature is comparable to taking horse near the water. It is essential that the person holding enquiry must establish this basic fact. It may be noticed from the enquiry papers that the recording of evidence was done for the first time on 4th April, 1994 and thereafter on 5th April, 1994. The enquiry papers show that workman was sent a notice on 1-3-1994 and 12-3-1994 for his appearance on 11-3-1994 and 24-3-1994 respectively. Then on 24-3-1994 another letter was sent for appearance of the workman on 4th April, 1994. It has been noted that three letters were to be sent to the workman by registered post/ acknowledgement due under certificate of posting, and by ordinary mail. Mr. K.R.Khandgale on behalf of the company stated that he was the convenor of the enquiry and letters dated 1-3-94, 12-3-94 and 24-3-1994 were sent by ordinary mail, registered post and under postal certificate. The covered documents were filed collectively as Ex. M3 along. The cross examination of this witness does not help. He admitted that he had not filed acknowledgement showing that the workman was served. In fact along with the affidavit certain acknowledgement as part of M3. The witness explained in cross examination that acknowledgement were returned unclaimed. This tribunal has therefore, carefully examined the evidence from the enquiry papers. It appears from record that letter dated 12th March, 1994 (Record page 54 of the enquiry) was sent by registered post as well under postal service (Record page 55). The registered letter was returned unclaimed. Therefore, presumption is that workman knew contents of the registered letter and he refused or did not claim it. It is not case of the workman that the entries made by the postal authorities are wrong, the photocopy at page 55 shows that letter on 15-3-94. Why did the workman return it? There is no explanation from him. On the other hand the workman admits that he received the ordinary letter dated 12-3-1994 on the service address on 26-3-1994 on the same address

and wrote back to the convenor on the same day. The reply is dated 25th March 1994 which was received by the company on 28th March 1994. This reply establishes workman had full knowledge of the contents of letter dated 12-3-1994 and therefore he declined to claim that was sent to by registered post. He must have received letter sent to him by ordinary post or certificate of posting earlier than 24th March 1994. Otherwise, there was no good reason refuse to take registered letter. It appears that workman did not want to explain on 24th March 1994 therefore he stated in the letter that he had received the notice on 25-3-1994. In any case non-appearance of the workman on earlier dates when the letters were sent by registered post ordinarily and under certificate of posting on 12-3-1994 and 24-3-1994 showed that he was not willing to attend the enquiry. The tenor of the letter dated 25th March 1994 show that he did not want to appear because he was undergoing medical treatment. He did not say how long it would take him to appear. The letter was sent with an ulterior motive by a person who did not want to participate in the enquiry. However, the workman did not suffer for his non-appearance on 24-3-2003 for the reason nothing transpired on that date. He was served with three identical cover containing letters dated 24-3-94 on the same address for his appearance on 4-4-1994. It is significant from page 59 enquiry papers that workman refused to accept registered letter which was sent on 25-3-1994. The date of refusal may not be known but the reason for refusal can be ignored. The workman must have not received the letter by ordinary post or that sent under postal certificate. The date of appearance on 4-4-1994 must have been known to him. Therefore, he refused to the registered letter dated 24-3-1994. Then he wrote letter dated 4-4-94 feigning that he had no knowledge about the date of hearing on 4-4-1994 and again repeated the same request as he done earlier in letter date 25-3-94. The only inference that can be drawn is that the workman had notice about the date of hearing and he had already indicated the cause of action he wanted the enquiry officer to take by his letter dated 25-3-94 apart from presumption arising from refusal this tribunal comes to conclusion that workman had full notice of that the case would proceed ex parte on 4-4-1994. Therefore, the enquiry officer rightly proceeded ex parte against the workman. He had before him letter of the workman dated 25-3-1994 did not evince any intention to attend the enquiry. The workman himself has not pressed this point in his written argument but since he was a layman this tribunal has not gone on the technicality for rejecting a point which could be found in his favour.

9. This takes us to the next point which has been heavily relied upon by the workman. This tribunal has now to examine if the company had not given an opportunity to workman and the entire enquiry was sham. The workman claims that he suffered an accident on 16th August 1993. The accident was very serious. It is his case that on 17-8-93

he gave this information. It was his claim that since 16-8-93 to the date of framing charge he was unable to attend to his duties. He had sent several such letters and medical certificates to the company. Despite the knowledge of these facts the company chose to frame the charge sheet dated 17-1-94 with malafide intention. It is obvious that the workman was bound to plead and prove that between 17-8-93 to 5-4-94 he was so sick that he unable to attend the office and also face the enquiry. That appears to be his case. The workman has given a long rigmarole of an argument to support his case. However, this tribunal is required to look the true facts in the face rather than beat about the bush.

10. The workman should have filed evidence regarding the accident that he suffered 16th August 1993. He should have examined the doctors who treated him after 16-8-93 for proving that he could not move about after 16-8-93. The witness stated that he was treated by Dr. S.B. Gupta of Dahisar Dr. Gupta was examined by the workman. He stated that he treated the workman and gave certificate dated 16th December 1993 and other Certificate Ex. 48 to Ex. 53. The first certificate dated 16th December 1993 Ex. 48 does not mention that workman had suffered any accident. Surprisingly, it refers to Back ache and peripheral neuritis. The certificate was given on 16-12-93 for illness from 16-8-93. The medicines were analgesics. The doctor in his examination stated that he had suspected prolapsed intervertebral disc but the certificate does not show that he agreed in cross examination that disease he had mentioned was not spondylitis. The doctor agreed that he did not mention the ailment in subsequent certificates dated 24-1-94, 31-1-94, 7-2-94 and 15-2-94 and 17-1-94. The doctor stated that in his first certificate he had mentioned the disease. It is surprising that on 16-8-93 when the workman got himself soon after accident Dr. Gupta did not advise hospitalization. He did not see any X-ray. The last lines of his testimony discloses the nature of his evidence. "I have not treated Mr. Sawant for any other ailment except back ache. Since the accident occurred on 16-8-93 and Mr. Sawant visited on 16-12-93, I did not relate back ache on 16-12-93 to accident but to the ailment of vertebrae. Mr. Sawant could go to Air India Clinic himself and there was no need for an ambulance". Thus the evidence of Dr. Gupta does not show that the workman had suffered any injury on 16-8-93. According to him when he examined him he could not relate the back ache to any injury. One thing is very clear that the workman was not examined by Dr. Gupta immediately after his alleged injury on 16-8-1993 but on 16-12-1993. The evidence Zaerchand Hariyal who took X-ray exhibit W-58 may be considered. He clearly states that X-ray plate did not reveal any accident. He admitted degeneration of vertebral started around 40 years. The X-ray report 58A is that of 3-5-1994. Therefore, accident is not proved. He stated that when he examined the workman he was walking. Dr. P.J. Shah who is the orthopaedic surgeon

had given certificates dated 5-5-1994 to and 17-5-94 (Exhibit 56 and Ex-57). He treated him between 9th May 1994 to 20th May 1994. The evidence this witness and the certificates issued by him that workman suffered from Lumber spondalitis between that period. His evidence is also not of any consequence to the facts of case. The evidence of Dr. V.V.Kelkar is for 25-2-94 to 30-4-94 Exhibit 54 and is 1-5-94 to 5-5-94. This doctor gave certificates for the period the enquiry was held. Therefore, his evidence lens scrutiny. The doctor admitted that he did not advise bed rest. The medicines prescribed where painkillers. This witness also appears to have treated Mr. Sawant for back ache. The workman has also introduced the evidence of Dr. Ashit Sheth but his evidence. His treatment was for periods much after the enquiry was completed. Therefore, his testimony regarding psychological or psychiatric disorder of the workman would not be of much consequence. Dr. Sheth says that the patient was suffering from mental depression. On the other hand P.N. Menon had stated in his affidavit that he had visited Mr. Sawant residence along with M.N.Birdy on 16-12-93. They had seen him riding the Motor bicycle. The inference drawn was that he was quite fit. He stated that he declined Ex M-1 to the workman. He was given permission to go to Hospital on ambulance on 16-1-1994 but he was not ready to use the ambulance and wrote the letter dated 13-1-1994 to the effect that he will make his own arrangements. A record note was made Exhibit M-12 was made by him at the instance of M.N.Birdy. In cross examination nothing substantial was brought out by the workman.

11. The sum and the substance of the above discussion is that workman has not been able to prove that he had met with any accident on 16-8-1993. It appears clearly that he was not disabled by any serious accident. The evidence of P.N.Menon is reliable as the preponderance of probabilities are that workman was feigning illness and absented himself without there being any accident. He avoided to attend the clinic of Air India Ltd. Because he was likely to be exposed. Thus was every good reason for framing charge sheet as the workman was malingering. As to the enquiry the workman had received the notice for appearance on 4-4-1994. He did not appear. This tribunal finds that the conduct of the workman shows that he believed that he could get away by obtaining medical certificate. This tribunal is not impressed by evidence Dr. V.V.Kelkar who gave certificates dated 30-4-1994 and 4-5-94 (Exhibit-54 and Ex-55) respectively. It is most easy to give such certificates for back ache but there is nothing to suggest that he was immobilized. The certificate do not advise bed rest. He could not recollect if had seen any x-ray report. Moreover, Dr. Bhagwat Prasad Gupta had given certificates dated 7-2-94 and 15-2-94 and had given the evidence the workman was suffering from peripheral neuritis. He had said that the workman could go to Air India clinic. From the evidence it is clear that workman failed to establish

from evidence on record that was any sufficient cause for his non appearance before the enquiry officer. Accordingly, this tribunal is of the opinion that the principles of natural justice were observed by the enquiry officer. Nothing substantial has been brought out from the evidence of the witnesses examined by the workman.

12. This tribunal has gone through the enquiry report and found that findings of facts recorded by it are based on the testimony of the witnesses examined before the enquiry officer. The three witnesses Mr. Sallian, Mr.P.Menon and M.N.Birdy were examined. Certain documents relating to the absence of the workman including the medical certificates sent by him were treated as the part of record. The report of the enquiry appeared to be based on oral and documentary evidence on record. The findings are such that reasonable man could come to the conclusion on the basis of the material on record.

13. This tribunal further comes to the conclusion that workman did not appear before the enquiry officer and therefore, he could not claim that non supply document could have affected the merits of the case.

14. This tribunal is further of the opinion that the workman has not been able to sustain his contention that the order of dismissal was not passed by the competent authority. The company has placed on record or notice issued by the competent authority under the Model Standing Orders (Central) issued by the Central Government as part of the rules framed by it under the Industrial Employment (Standing Orders Act) 1946. The power of awarding punishment was delegated to Asstt. Finance Controller, who passed the order dated 21-7-1994. In the same order of the delegation the appellate authority has also been prescribed. It is Deputy Financial Controller against the order of punishment. Since it is not in dispute that the workman was confirmed office Asstt., he cannot complain that the order of dismissal was not passed by the competent authority. Nor can he say that appellate authority was not prescribed.

15. This tribunal further finds that the model standing orders were complied with. The workman was served with the copy of report along with letter dated 21-4-1994 for his comments. There after, a show cause notice dated 10th May, 1994 Exhibit M-4 was sent to him. The workman gave reply Ex M-5. Thus, the procedure adopted after filing report was flawless.

16. On the aforesaid findings the domestic enquiry can be upheld. However, since the workman has led evidence on merits this tribunal briefly state its reasons for not agreeing with the contention of the workman that he has disproved the charges. The evidence led by the workman with great effort and enthusiasm, has not made any effect on the case of the company. There is no medical evidence on record that workman met with accident on 16-8-1993. If the workman had fallen from scooter then there

would be contemporaneous evidence. The workman did not place on record any such evidence. This tribunal has, therefore, accepted the evidence led by the company P.N. Menon has clearly proved that the workman was apparently seen walking and riding scooter and he had made record notice of that fact. Coupled with this fact is reluctance of the workman, who avoided to get himself examined by the Medical Services of the company. The evidence of Dr. S.B. Gupta, reveals that he had examined the workman for the first time on 16-12-93. Even then the workman appeared to be healthy enough to face the panel of doctor of the company. This tribunal cannot rely on the evidence of Dr. V.V. Kelkar to hold that the workman was confined to bed. This tribunal has already given its reasons in earlier paragraphs. The evidence of Doctor examined by the workman shows that his condition could not be such that he would not be able to go to the company between 16-8-1993 to 21-7-1994. On the other hand his letters reveal that he was all the time making a case for showing his absence. It appears to this tribunal that workman falsely believed that he could avoid punishment by procuring medical certificates. It is obvious that the company was not bound to accept the certificates of private doctors. The certificates given by the various doctors appear to have been easily obtained. This tribunal has already quoted the version of Dr. Gupta. This tribunal also shown the inconsistency of the certificates issued by the various doctor. All in all, this tribunal is of the view that even after much effort, the workman could not satisfy this tribunal that he remained absent for valid reasons. Apart from the report of the enquiry, this tribunal independently come to the conclusion that the workman remained absent without leave from 16-8-93 to the date of his dismissal. He could not justify his absence before this tribunal.

17. The next question is regarding the punishment. This tribunal is convinced from the conduct of the workman that workman deliberately remained absent in defiance of normal rules of conduct. He failed to submit to medical examination. This conduct was in itself enough to award of the punishment of dismissal because the workman had remained absent for about four months. That apart the company placed those documents which showed that the workman remained absent and was often late. He was given mild punishment in past. This tribunal therefore, comes to conclusion that there is no scope for mitigation of sentence of punishment in exercise of power under Section 11-A of the Act. This tribunal has not referred to any authority because this award is based on facts and not on questions of law.

18. The result of the above discussion is that this tribunal answers the reference by stating that the company has dismissed the workman legally in accordance with law and justice. Under the facts and circumstances of the case, the workman is not entitled to any relief. No cost.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 85.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडेज बॉटलिंग प्लांट के प्रबंधतान्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय एवं औद्योगिक अधिकरण, अजमेर के पंचाट (संदर्भ संख्या सी.एल.सी.आर. 04/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-2003 को प्राप्त हुआ था।

[सं. एल-20012/220/97-आई आर (सी-1)]

एस० एस० गुप्ता, अवार सचिव

New Delhi, the 15th December, 2003

S.O. 85.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CLCR No. 04/98) of the Industrial Tribunal-cum-Labour Court, Ajmer as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indojo Bottling Plant and their workmen, which was received by the Central Government on 11-12-2003.

[No. L-20012/220/97-IR (C-1)]

S. S. GUPTA, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण,
अजमेर (राज.)

पीठासीन अधिकारी :

अतुल कुमार जैन, आरएचजे.एस

प्रकरण संख्या-सीएलसीआर 04/98

[केंद्र सरकार का रेफरेंस पत्र क्र. एल 20012/220/97

आईआर (सी.आई.)

दिनांक 3-6-98]

नौरतमल राष्ट्र पुत्र स्व. रंगलाल राष्ट्र उम्र 36 साल,

निवासी-पोस्ट तवीजीवाया सराधना,

जिला अजमेर,

अजमेर संयुक्त महामंत्री हिंद मजदूर सभा,

अजमेर

.... प्रार्थी

बनाम

प्लांट प्रबंधक,

इंडेज बॉटलिंग प्लांट,

राष्ट्रीय राजमार्ग नं. 8 किशनगढ़,

व्यावर बाई पास के निकट,

तवीजी के पास,

अजमेर

.... अप्रार्थी

उपस्थित :

श्री शोमित अंत,

एडवोकेट, प्रार्थी की ओर से।

श्री कपूरचंद जैन,

एडवोकेट, अप्रार्थी की ओर से।

दिनांक : 4-12-2003.

अवाद्ध

इस प्रकरण में प्रार्थी अपने-आपको विपक्षी के यहां मैटिनेंस हैल्पर के पद पर कार्य करने वाला नियमित कर्मचारी होना कहता है जबकि विपक्षी का कहना है कि प्रार्थी ने क्लेम में वर्णित अवधि 7-1-92 से 11-6-96 के मध्य केवल मात्र पेटी कांट्रैक्टर (छोटा ठेकेदार) के रूप में कार्य किया था। प्रार्थी का कहना है कि उक्त अवधि में उसे विपक्षी 1200 रु. प्रतिमाह तनखावाह देता था जबकि विपक्षी का कहना है कि प्रार्थी को उसके सुदूर कार्य के अनुसार पेटी कांट्रैक्टर के रूप में बाउचर के जरिये भुगतान किया जाता था तथा प्रार्थी विपक्षी के यहां कभी पे-रोल पर 1200 रु. प्रतिमाह का स्थाई/अस्थाई/नियमित कर्मचारी कभी नहीं रहा।

प्रार्थी ने तर्क दिया है कि दि. 12-6-96 से उसे मौखिक रूप से विपक्षी ने सेवा से हटाकर धारा 25एफ औद्योगिक विवाद अधिनियम, 1947 का उल्लंघन किया है। विपक्षी का कहना है कि पेटी कांट्रैक्टर्स पर धारा 25एफ लागू नहीं होती है विपक्षी का यह भी कहना है कि प्रार्थी उनके यहां कभी कर्मचारी/त्रिभिक के रूप में कार्यरत नहीं रहा है।

फरियादी नौरतमल राव ने अपने तर्क के समर्थन में सुद का हलफनामा पेश किया है जिस पर विपक्षी ने उससे जिरह की है। जिरह में फरियादी ने स्वीकार किया है कि वह अपनी मजदूरी का बिल बनाकर विपक्षी को दे देता था तथा बिलों के आधार पर उसे समय-समय पर विपक्षी भुगतान करता रहता था। फरियादी का यह भी कहना है कि उसे फैक्ट्री में घुसने के लिए पर्ची बनवानी पड़ती थी जो गेट पर देकर वह फैक्ट्री में प्रवेश पाता था। जिरह में उसने स्वीकार किया है कि विपक्षी के यहां नियुक्त जिस भी व्यक्ति को दी जाती है उसे नियुक्त पत्र दिये जाते हैं। प्रार्थी ने स्वीकार किया है कि उसके पास कोई नियुक्त पत्र विपक्षी द्वारा दिया हुआ नहीं है।

विपक्षी ने अपने गवाह नीरज राठोड़ का शपथ पत्र पेश किया है जिसमें उक्त गवाह ने बताया है कि प्रार्थी ने विपक्षी के यहां केवल मात्र पेटी कांट्रैक्टर के रूप में जनवरी 1993 से अप्रैल 1996 के मध्य काम किया था इस गवाह का कहना है कि प्रार्थी से केवल मात्र आकस्मिक कार्य लिया जाता था तथा विपक्षी के यहां मैटिनेंस हैल्पर का कोई पद भी नहीं है इस गवाह का कहना है कि फरियादी का यह भी कहना गलत है कि वह नियमित रूप से विपक्षी के यहां गाड़ियों में डीजल भरता है। उक्त गवाह का कहना है कि डीजल भरने का कार्य नियमित नहीं है तथा इसमें केवल दस-पंद्रह मिनट लगते हैं तथा इस कार्य के लिए किसी भी ढेकेदार को कैसे दिया जा सकता है। इस गवाह का कहना है कि ट्रकों के द्वारा जो डीजल लिया जाता है, उसका इंद्राज स्ट्रेंग ट्रक के ड्राइवर द्वारा किया जाता है तथा इंद्राज अन्य व्यक्ति करे तो भी उसका उस ट्रक के ड्राइवर के ही मान्य होते हैं। उक्त गवाह का यह भी कहना है कि उनके यहां नियमित कर्मचारी को परिचय पत्र जारी किया जाता है जबकि प्रार्थी

के विपक्ष द्वारा जारी किया हुआ ऐसा कोई परिचय पत्र नहीं है। उक्त गवाह का कहना है कि विपक्षी कॉर्पोरेशन में नियमित त्रिभिकों को गेट रजिस्टर में इंद्राज करने की जरूरत नहीं होती है केवल बाहरी व्यक्तियों व पेटी कांट्रैक्टर्स को गेट रजिस्टर में अपनी आमद-एहत का इंद्राज करना होता है। उक्त गवाह का कहना है कि विपक्षी ने यदि प्रार्थी को नियुक्त किया होता तो प्रार्थी के पास नियुक्ति अत्र पदोन्नति चर्चा आदि कागजात होते। विपक्षी के उक्त गवाह से प्रार्थी ने लंबी जिरह की है। जिरह में भी यह गवाह अपने शपथ पत्र में अंकित कथनों से विचारित नहीं हुआ है। इस गवाह से जिरह में जह साबित नहीं कराया जा सकता है कि प्रार्थी नौरतमल विपक्षी के यहां 1200/- रु. प्रतिमाह पर कारी भी स्थाई/अस्थाई अथवा नियमित कर्मचारी रखा गया हो।

प्रार्थी ने गेट रजिस्टर की नकल प्रदर्श डब. 1 तथा सुदूर कार्य की पर्चियों की नकलों प्रदर्श डब. 2 लगायत प्रदर्श डब. 6, गेट-पास की नकलों प्रदर्श डब. 7 लगायत प्रदर्श डब. 11 प्रदर्शित करायी हैं। गेट पास के उक्त इंद्राजात मात्र से प्रार्थी को विपक्षी का अस्थाई/स्थाई कर्मचारी नहीं माना जा सकता है। विपक्षी ने इसके विपरीत प्रार्थी को किये गये भुगतान की रसीदों की फोटों को पर्चियों प्रदर्श एम-1 लगायत एम-7 पैश की है, जिसमें एम-1 के जरिये उसे सुदूर कार्य की मजदूरी 929/- रु. प्रदर्श एम-2 के जरिये उसे सुदूर कार्य की मजदूरी 1053/- रु., प्रदर्श एम-3 के जरिये उसे सुदूर कार्य की मजदूरी 1139/- रु., प्रदर्श एम-4 के जरिये सुदूर कार्य की मजदूरी 1103/- रु., प्रदर्श एम-5 के जरिये सुदूर कार्य की मजदूरी 650/- रु., प्रदर्श एम-6 के जरिये सुदूर कार्य की मजदूरी 910/- रु. तथा प्रदर्श एम-11 के जरिये सुदूर कार्य की मजदूरी 1075/- रु. का उसे भुगतान विपक्षी द्वारा किया गया है और भुगतान की इन पर्चियों पर प्राप्तकर्ता के रूप में प्रार्थी नौरतमल के हस्ताक्षर होना विवादित नहीं है। उक्त पर्चियां भी वह साबित करती हैं कि विपक्षी प्रार्थी से पुटकर (सुदूर) कार्य अथवा इंसीडेंटल कार्य यदा-कदा लिया करता था। उस कार्य की मजदूरी का भुगतान प्रार्थी को यथासंभव कार्य के डपरात कर दिया जाता था। उक्त दस्तावेजी सबूत से भी प्रार्थी का विपक्षी के यहां स्थाई/अस्थाई/नियमित कर्मचारी होना अथवा दैनिक बेतन भोगी कर्मचारी होना कहीं से भी प्रमाणित नहीं होता है।

प्रार्थी नौरतमल की ओर से इस प्रकरण में लिखित बहस भी पेश की गयी है जो फाईल में शामिल है। प्रार्थी का कहना है कि वह विपक्षी का वर्कमैन है लेकिन विपक्षी उसे जिम्मेदारी से बचने के लिए टार्मिनेशन के उपरांत पेटी कांट्रैक्टर का नाम दे रहा है। प्रार्थी का कहना है कि माननीय उच्च न्यायालय व माननीय उच्चतम न्यायालय यह अंतिम रूप से निर्धारित कर सकते हैं कि विपक्षी को इस प्रकार से पेटी कांट्रैक्टर्स से काम लेने का कोई अधिकार नहीं था और प्रार्थी के अनुसार कांट्रैक्टर लेन्डर (रेग्यलेशन एंड अबॉल्यूशन) पर्सन, 1970 के प्रान्तरणों को देखते हुए प्रार्थी नौरतमल को विपक्षी का अधिकार माना जावे और अस-25एफ की पालना नहीं की जाने के कारण प्रार्थी को विपक्षी के यहां बैक-बैक एवं कंटीन्यूटी ऑफ सर्विस के साथ सेवा में पुनःबहाली के आदेश जारी किये जावे। विपक्षी ने उक्त प्रार्थना का गंभीर विरोध किया है।

उभयपक्ष ने इस प्रकरण में माननीय सर्वोच्च न्यायालय के निर्णय स्टील ऑर्थरी ऑफ इंडिया/नेशनल यूनियन वाटर फ्रंट वर्कर्स एआईआर 2001 सुप्रीम कोर्ट 3527 का सहारा लिया है। इस नज़ीर में माननीय सर्वोच्च न्यायालय ने अपने से पूर्व के निर्णय 1997 सुप्रीम कोर्ट 430 एयर इंडिया स्टेट्यूटरी कॉर्पोरेशन/यूनाइटेड लेबर यूनियन को प्रॉसेस्विक्टवली ओवर रूल कर दिया था। स्टील ऑर्थरी वाले उक्त निर्णय में माननीय सर्वोच्च न्यायालय ने यह स्पष्ट किया था कि कांट्रैक्ट लेबर (रेग्यूलेशन एंड अबॉल्यूशन) एक्ट, 1970 में धारा 10 में कांट्रैक्ट लेबर रखने पर प्रतिबंध तो है लेकिन उक्त अधिनियम की मंशा यह नहीं मानी जा सकती है कि एक विशेष दिनांक को नियोजक के यहां जो भी कांट्रैक्ट लेबर कार्य कर रहे होंगे उनका प्रिंसिपल एम्प्लॉयर को ऑटोमैटिक एब्जाशन करना होगा। माननीय सर्वोच्च न्यायालय ने ऐसे ऑटोमैटिक एब्जाशन से उत्पन्न होने वाली विसंगतियों का विस्तार से विवेचन करने के उपरांत यह माना कि केवल मात्र यह निर्धारित किया जा सकता है कि कांट्रैक्ट लेबर को नियोजन में प्रिंसिपल एम्प्लॉयर द्वारा प्राथमिकता दी जायेगी। उक्त अधिनियम की धारा 10 इस संबंध में विशेष रूप से उल्लेखनीय है। उक्त धारा के अनुसार केंद्र सरकार सेंट्रल बोर्ड से राय के उपरांत राजपत्र में विज्ञप्ति प्रसारित करके कांट्रैक्ट लेबर की विषयकी के यहां नियुक्ति पर रोक लगा सकती थी। हमारे समक्ष प्रार्थी ने धारा 10 कांट्रैक्ट लेबर (रेग्यूलेशन एंड अबॉल्यूशन) एक्ट 1970 के तहत सक्षम सरकार की ऐसी कोई विज्ञप्ति पेश नहीं की है जिसमें इंडेन बॉटलिंग प्लांट, अजमेर में कांट्रैक्ट लेबर नियुक्ति किये जाने पर कोई प्रतिबंध लगाया गया हो। उक्त हालात में उक्त अधिनियम की धारा 10 वर्तमान प्रकरण में लागू नहीं की जा सकती है।

प्रार्थी ने अपने तर्क के समर्थन में निम्न अन्य नज़ीरें भी उल्लेखित की हैं।

1. एआईआर 1978 सुप्रीम कोर्ट पेज 1410 हुसैन भाई/अलथ फैक्ट्री यूनियन इस नज़ीर में माननीय सर्वोच्च न्यायालय ने यह निर्धारित किया था कि श्रमिक को ठेकेदार का श्रमिक माना जावे अथवा प्रिंसिपल नियोजक का श्रमिक माना जावे, यह प्रत्येक मामले में श्रम न्यायालय तय कर सकेगी। 1995 एलएलआर सुप्रीम कोर्ट 552 गुजरात इलैक्ट्रीसिटी बोर्ड/हिंद मजदूर सभा इस नज़ीर में यह तय किया गया था कि ठेकेदार की आड़ में श्रमिकों का शोषण यदि नियोजक द्वारा किया जा रहा है तो ठेकेदार के श्रमिकों को ही सीधे ही मुख्य नियोजक का श्रमिक माना जा सकता है। इस निर्णय में यह भी बताया गया था कि श्रम न्यायालय किन आधारों पर उभयपक्ष की संविदा की वास्तविकता की जांच कर सकेगी। एलएलआर 1997 सुप्रीम कोर्ट पेज 288 एयर इंडिया/यूनाइटेड लेबर यूनियन यह निर्णय माननीय सर्वोच्च न्यायालय द्वारा स्टील ऑर्थरी वाले प्रकरण में ओवर रूल किया जा चुका है। एलएलआर 1999 सुप्रीम कोर्ट पेज 433 सेंक्रेट्री, एचएसईबी/सुरेश आदि इस नज़ीर में माननीय सर्वोच्च न्यायालय ने यह माना कि विजली बोर्ड ठेकेदारों के माध्यम से ठेका श्रमिकों का शोषण कर रहा था परिणामतः ठेका श्रमिकों को सीधे ही विजली बोर्ड का कर्मचारी माना गया है। 1985 (II) एलएलएन मद्रास पेज 169 वर्कमैन ऑफ बेस एंड क्रॉम्पटन/बेस एंड क्रॉम्पटन इंजीनियरिंग लिमिटेड इस नज़ीर में यह निर्धारित किया गया था कि यदि ठेकेदार ने

ठेका श्रमिक नियुक्त करने के लिए 1970 के अधिनियम के तहत लाइसेंस नहीं ले रखी है तो ऐसे ठेका श्रमिक ठेकेदार के श्रमिक नहीं माने जाकर सीधे ही मुख्य नियोजक के श्रमिक माने जावेंगे। एलएलएन (II) 1993 राज. 161 एचएमटी/आईटी, जयपुर इस नज़ीर में माननीय राजस्थान उच्च न्यायालय ने यह निर्धारित किया था कि श्रम न्यायालय ने यदि उभयपक्षों में मालिक व मजदूर का रिश्ता मान लिया हो तो इस प्रकार के तथ्यात्मक निष्कर्ष को माननीय उच्च न्यायालय में चुनौती नहीं दी जा सकेगी।

इस प्रकार उक्त सभी नज़ीरों के प्रारंभ से अंत तक अध्ययन के उपरांत हम इस नतीजे पर पहुंचे हैं कि यदि कोई नियोजक ठेकेदार के माध्यम से फर्जी इकारानाम बनाकर ठेका श्रमिकों का शोषण करे और ठेकेदार के पास ठेका श्रमिक रखने के लिए नियमानुसार लाइसेंस भी नहीं हो तो ऐसे मामलों में श्रम न्यायालय उभयपक्ष के मध्य हुई संविदा की वैधता की जांच कर सकती है एवं ऐसी संविदा यदि कांट्रैक्ट लेबर (रेग्यूलेशन एंड अबॉल्यूशन) एक्ट 1970 के प्रावधानों के विपरीत हो तो श्रमिकों को उचित अनुतोष श्रम न्यायालय दिलवा सकती है। वर्तमान मामले में किसी ठेकेदार पर ठेका श्रमिकों के शोषण का आरोप नहीं है। प्रार्थी नौरतमल स्वयं ही ठेकेदार प्रतीत होता है। नौरतमल ने अन्य ठेका श्रमिकों को काम पर नहीं लगाया हुआ था छोटे-मोटे कार्य के जुआल ठेके पर दिया जाना 1970 के अधिनियम में प्रतिबंधित नहीं है। कोई व्यक्ति अपने मकान की हर साल White washing एक ही ठेकेदार से करावे तो भी वह ठेकेदार या उसके ठेका श्रमिक मकान-मालिक (मुख्य नियोजक) के सीधे ही कर्मचारी नहीं माना जावेगा। कांट्रैक्ट लेबर (रेग्यूलेशन एंड अबॉल्यूशन) एक्ट 1970 के प्रावधानों को अनुचित विस्तार दिया जाना माननीय सर्वोच्च न्यायालय ने भी अपनी पूर्ण पीठ के निर्णय (स्टील ऑर्थरी वाले प्रकरण) में वर्ष 2001 में अनुचित माना है।

उक्त विवेचन के आधार पर इस प्रकरण में यह निर्धारित किया जाता है कि प्रार्थी नौरतमल अपने आपको विषयकी का श्रमिक होना साबित नहीं कर सका है। नौरतमल विषयकी का केवल मात्र खुदरा कार्यों के लिए लगाया गया। पेटी कांट्रैक्टर प्रतीत होता है उससे लिया जाने वाला कार्य रेग्यूलर नहीं होकर इंसीडेंटल/आकस्मिक प्रकार का था। पेटी कांट्रैक्टर की सेवायें कभी भी डिस-कंटीन्यू करने का विषयकी को पूर्ण अधिकार था। इस मामले पर धारा 25एफ औद्योगिक विवाद अधिनियम लागू नहीं होती है और तदनुसार प्रार्थी नौरतमल इस प्रकरण में विषयकी से कोई अनुतोष प्राप्त वर्तने का हकदार नहीं है।

अतुल कुमार जैन, न्यायाधीश

नई दिल्ली, 30 दिसम्बर, 2003

का. आ. 86.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसर में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 2026 दिनांक 25 जून, 2003 द्वारा बैंक नोट मुद्रणालय, देवास (म.प्र.) जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि संख्या 22 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 1-7-2003 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 1-1-2004 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/4/97-आई.आर. (पी.एल.)]

जे० पी० पति, संयुक्त सचिव

New Delhi, the 30th December, 2003

S.O. 86.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of

India in the Ministry of Labour S.O. No. 2026 dated 25-6-2003 the services in the Bank Note Press, Dewas (MP.) Which is covered by item 22 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 1st July, 2003.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of Clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 1st January, 2004.

[No. S-11017/4/97-IR (PL)]

J.P. PATI, Jt. Secy.